

## CREATION OF A NATIONAL PROGRAM FOR COASTAL AND ESTUARINE ZONE MANAGEMENT

DECEMBER 1 (legislative day, NOVEMBER 29), 1971.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce,  
submitted the following

### REPORT

(together with individual views)

[To accompany S. 582]

The Committee on Commerce, to which was referred the bill (S. 582) relating to the establishment of a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert the following:

That the Act entitled the "Marine Resources and Engineering Development Act of 1966," approved June 17, 1966, as amended (33 U.S.C. 1101 et seq.), is amended by adding at the end thereof the following new title:

#### "TITLE III MANAGEMENT OF THE COASTAL AND ESTUARINE ZONE

##### "SHORT TITLE

"SEC. 301. This title may be cited as the 'National Coastal and Estuarine Zone Management Act of 1971'.

##### "CONGRESSIONAL FINDINGS

"SEC. 302. The Congress finds that—

"(a) There is a national interest in the effective management, beneficial use, protection and development of the Nation's coastal and estuarine zone;

"(b) The coastal and estuarine zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of our Nation;

"(c) The increasing and competing demands upon the lands and waters of our coastal and estuarine zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

"(d) The coastal and estuarine zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

"(e) Important ecological, cultural, historic, and esthetic values in the coastal and estuarine zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

"(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

"(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in our coastal and estuarine zone, present State and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

"(h) The key to more effective use of the land and water resources of the coastal and estuarine zone is to encourage the States to exercise their full authority over the management of non-Federal lands and waters in the coastal and estuarine zone by assisting the States, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal and estuarine zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

#### "DECLARATION OF POLICY

"Sec. 303. Congress finds and declares that it is the policy of Congress to preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal and estuarine zone for this and succeeding generations. The Congress declares that it is necessary to encourage and assist the States to exercise effectively their responsibilities over the Nation's coastal and estuarine zone through the preparation and implementation of comprehensive plans and management programs to achieve wise use of the coastal and estuarine zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development. Congress declares that it is the duty and responsibility of all Federal agencies engaged in programs affecting the coastal and estuarine zone to cooperate and participate with State and local governments and regional agencies effectuating the purposes of this Act. Further, it is the policy of Congress to encourage the participation of the public, Federal, State, and local governments and regional agencies in the development of coastal and estuarine zone comprehensive plans and management programs. With respect to implementation of such management programs, it is the policy of Congress to encourage cooperation among the various State and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

#### "DEFINITIONS

"Sec. 304. For the purposes of this title—

"(a) 'Areas of critical environmental concern' are areas where uncontrolled development could (1) result in irreversible damage to important historic values, cultural values, esthetic values, natural systems or processes, which are of more than local significance, or (2) unreasonably endanger life and property as a result of natural hazards of more than local significance. Such areas within the coastal and estuarine zone shall include—

- "(1) coastal wetlands, marshes, and other lands inundated by the tides;
- "(2) beaches and dunes;
- "(3) estuaries, shorelands, and flood plains of rivers, lakes, and streams;
- "(4) rare or valuable ecosystems;
- "(5) scenic or historic areas; and

"(6) such additional areas as a State determines to be of critical environmental concern.

"(b) 'Coastal and estuarine zone' means the land, waters, and lands beneath the waters near the coastline (including the Great Lakes and estuaries). For purposes of identifying the objects of management and regulatory programs the coastal and estuarine zone extends seaward to the outer limits of the United States territorial sea, and to the international boundary between the United States and Canada in the Great Lakes; and landward seven miles, measured from mean high water, provided that where such landward boundary divides an existing local, regional, or State political subdivision or planning unit, the State may, for the purposes of this Act, include the entire political subdivision or planning unit within its coastal and estuarine zone. Within the coastal and estuarine zone as defined herein are included areas and lands influenced or affected by water such as, but not limited to, bays, beaches, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, rivers, and channels.

"(c) 'Coastal State' means any State of the United States in or bordering on the Atlantic, Pacific, and Arctic Oceans, Gulf of Mexico, Long Island Sound, or the Great Lakes, and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) 'Estuarine sanctuary' is a research area, which may include waters, lands beneath such waters, and adjacent uplands, within the coastal and estuarine zone, and constituting to the extent feasible a natural unit, set aside to provide scientists the opportunity to examine over a period of time the ecological relationships within estuaries.

"(e) 'Estuary' means that part of a river or stream or other body of water having natural connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage, or with the Great Lakes.

"(f) 'Key facilities' are facilities, including proposed large-scale private development, which tend to induce development having an impact of more than local significance upon the environment, including major airports, highways and highway interchanges, recreational facilities, and such other public and private facilities as may be designated by the State.

"(g) 'Land and water uses of regional benefit' includes land and water uses and private development for which there is a demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

"(h) 'Large scale development' is development which because of its magnitude or the magnitude of its effect upon the surrounding environment presents issues of more than local significance.

"(i) 'Management program' means a program by which a coastal State proposes (1) to manage land and water uses in areas of critical environmental concern and in areas surrounding key facilities, (2) to ensure that local regulations do not restrict or exclude land or water uses of regional benefit, and (3) to control large-scale development within its coastal and estuarine zone. As used herein such term shall include the development of a comprehensive plan (a statement in words, maps, illustrations, or other media of communication, prepared and adopted by the State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal and estuarine zone) and of a governmental structure capable of implementing such a plan.

"(j) 'Secretary' means the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating.

#### "MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting in the development of a management program for the land and water resources of its coastal and estuarine zone.

"(b) Such management program shall include:

"(1) an identification of the boundaries of the portions of the coastal State subject to the management program:

"(2) a definition of what shall constitute areas of critical environmental concern, key facilities, and large-scale development, and land and water uses of regional benefit;

"(3) an inventory and designation of areas of critical environmental concern, key facilities, and large-scale development;

"(4) an identification of the means by which the State proposes to exert control over large-scale development and over land and water uses in areas of critical environmental concern and in areas surrounding key facilities, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

"(5) an identification of the means by which the State proposes to assure that local regulations do not restrict or exclude land and water uses of regional benefit; and

"(6) a description of the organizational structure proposed to implement the management program.

"(c) Such grants shall not exceed 66% per centum of the costs of such program in any one year. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this subsection, the State must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. Successive grants may be made annually for a period not to exceed two years: Provided, That no successive grant shall be made under this subsection unless the Secretary finds that the State is satisfactorily developing such management program.

"(d) Upon completion of the development of the State's management program, the coastal State shall submit such program to the Secretary for review, approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the State's eligibility for further grants under this section shall terminate, and the State shall be eligible for grants under section 306 of this title.

"(e) Grants under this section shall be allotted to the States based on rules and regulations promulgated by the Secretary: Provided, however, That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

"(f) Grants or portions thereof not obligated by a State during the fiscal year for which they were first authorized to be obligated by such State, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

"(g) With the approval of the Secretary, the State may allocate to an interstate agency or areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 a portion of the grant under this section for the purpose of carrying out the provisions of this section.

"(h) The authority to make grants under this section expires five years from the date of enactment of this title.

#### "ADMINISTRATIVE GRANTS

"Sec. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than 66% per centum of the costs of administering the State's management program, if he approves such program in accordance with subsection (c) of this section. Federal funds received from other sources shall not be used to pay the coastal State's share of costs.

"(b) Such grants shall be allotted to the States with approved programs based on rules and regulations promulgated by the Secretary: Provided, however, That no annual administrative grant under this section shall be made in excess of 10 per centum, nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

"(c) Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that:

"(1) The State has developed and adopted a management program for its coastal and estuarine zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title.

"(2) The State has:

"(A) coordinated with metropolitanwide plans applicable to areas within the coastal and estuarine zone existing on January 1 of the year

in which the State's management program is submitted to the Secretary, which plans have been developed by an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966;

"(B) coordinated with neighboring States as appropriate with respect to lands and waters in interstate areas and to regional demands and needs within the coastal and estuarine zone; and

"(C) held public hearings in the development of the management program.

"(3) The management program and changes thereto have been reviewed and approved by the Governor.

"(4) The Governor of the State has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

"(5) The State is organized to implement the management program required under paragraph (1) of this subsection.

"(6) The State has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

"(7) The State has assumed authority (A) to control land and water uses in areas of critical environmental concern and in areas surrounding key facilities, (B) to ensure that local regulations do not restrict or exclude land or water uses of regional benefit, and (C) to control large scale development within its coastal and estuarine zone as provided in subsection (e) of this section.

(d) Prior to granting approval of the management program, the Secretary shall find that the State, acting through its chosen agency or agencies (including local governments or areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966), has authority for the management of the coastal and estuarine zone in accordance with the management program. Such authority shall include power—

"(1) to administer land and water use regulations, control public and private development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(e) Prior to granting approval, the Secretary shall find that the State, acting through its chosen agency or agencies, has provided, as a minimum:

"(1) for any one or a combination of the following general techniques for control of land and water uses in areas of critical environmental concern and in areas surrounding key facilities, and for control of large scale development within its coastal and estuarine zone.

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

"(B) Direct State land and water use planning and regulation; and

"(C) State and administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances there to, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(2) for a method of assuring that local land and water use regulations within the coastal and estuarine zone do not restrict or exclude land and water uses of regional benefit.

"(f) With the approval of the Secretary, a State may allocate to an interstate agency or an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 a portion of the grant under this section for the purpose of carrying out the provisions of this section: Provided, That such allocation shall not relieve the State of the responsibility for ensuring that any funds so allocated are applied in furtherance of such State's approved management program.

"(g) The State shall be authorized to amend the management program. Such modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the State's management program must be approved by the Secretary before additional administrative grants are made to the State under the program as amended.

"(h) At the discretion of the State and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal and estuarine zone which most urgently need management programs: *Provided*, That the State adequately provides for the ultimate coordination of the various segments of the management program into a single program and that such program will be completed as soon as is reasonably practicable.

#### "PUBLIC HEARINGS

"SEC. 307. All public hearings required under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

#### "RULES AND REGULATIONS

"SEC. 308. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

#### "REVIEW OF PERFORMANCE

"SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the States and of the performance of each State.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the State is failing to adhere to and is not justified in deviating from the program approved by the Secretary, and (2) the State has been given notice of proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

#### "RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

#### "ADVISORY COMMITTEE

"SEC. 311. (a) The Secretary is authorized to establish a Coastal and Estuarine Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal and estuarine zones of the States of the United States. Such committee shall be composed of not more than fifteen persons appointed by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct.

(b) Members of said advisory committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

#### "ESTUARINE SANCTUARIES

"SEC. 312. The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a State grants up to 50 per

centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal and estuarine zone. The number of estuarine sanctuaries provided for under this section shall not exceed fifteen, and the Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 306 shall be used for the purpose of this section.

#### "INTERAGENCY COORDINATION AND COOPERATION

"Sec. 313. (a) The Secretary shall not approve the management program submitted by a State pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and a State in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

"(b) (1) All Federal agencies conducting or supporting activities in the coastal and estuarine zone shall administer their programs consistent with approved State management programs except in cases of overriding national interest as determined by the President. Program coverage and procedures provided for in regulations issued pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968 shall be applied in determining whether Federal projects and activities are consistent with approved management programs.

"(2) Federal agencies shall not undertake any development project in the coastal and estuarine zone which, in the opinion of a State, is inconsistent with the approved management program of such coastal State unless the Secretary, after receiving detailed comments from both the Federal agency and the State, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

"(3) After final approval by the Secretary of a State's management program, any applicant for a Federal license or permit to conduct any new activity affecting land or water uses in the coastal and estuarine zone of such State subject to such license or permit, shall provide in the application to the licensing or permitting agency a certification from the appropriate State agency that the proposed activity complies with the State's approved management program, and that there is reasonable assurance, as determined by the State, that such activity will be conducted in a manner consistent with the State's approved management program. The State shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. If the State agency fails to grant or deny a request for certification within six months after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence, unless, after receipt of detailed comments from the relevant Federal and State agencies, and the provision of an opportunity for a public hearing, the activity is found by the Secretary to be consistent with the objectives of this title or necessary in the interest of national security. Upon receipt of such application and certification, the licensing or permitting agency shall immediately notify the Secretary of such application and certification. The requirements imposed on any Federal agency by the National Environmental Policy Act (83 Stat. 582) shall be satisfied with respect to any matter considered under this Act by certification from the appropriate State agency pursuant to this section.

"(c) State and local governments submitting applications for Federal assistance in the coastal and estuarine zone shall indicate the views of the appropriate State or local agency as to the relationship of such activities to the approved management program for the coastal and estuarine zone. Such applications shall be submitted in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with the State's management

program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

"(d) Nothing in this section shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, and navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

"(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this title;

"(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this title; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States Operating Entity or Entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

#### "ANNUAL REPORT

"SEC. 314. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than January 1 of each year a report on the administration of this title for the preceding fiscal year.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation, including a summary of a coordinated national strategy and program for the Nation's coastal and estuarine zones, identifying and discussing Federal, regional, State, and local responsibilities and functions therein.

#### "APPROPRIATIONS

"SEC. 315. (a) There are authorized to be appropriated—

"(1) the sum of \$12,000,000 for the fiscal year ending June 30, 1972, and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1976, for grants under section 305, to remain available until expended;

"(2) such sums, not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for grants under section 306 to remain available until expended;

"(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1972, as may be necessary for grants under section 312; and

"(b) There are also authorized to be appropriated to the Secretary such sums, not to exceed \$1,500,000 annually, as may be necessary for administrative expenses incident to the administration of this title."

Amend the title so as to read:

A bill to amend the Marine Resources and Engineering Development Act of 1966 to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes.

#### PURPOSE

S. 582:(1) authorizes Federal grants-in-aid to coastal States to develop coastal and estuarine zone management programs; (2) authorizes grants to help coastal States implement those management programs; and (3) authorizes grants to assist States in the acquisition and operation of estuarine sanctuaries. Originally proposed by the Commission on Marine Science, Engineering and Resources, the bill is to



encourage and assist the States in the preparation and implementation of such management programs to preserve, protect, develop, and where possible restore the resources of the coastal and estuarine zones of the United States. By providing grants-in-aid to the States bordering the Atlantic and Pacific coasts, the Gulf of Mexico, Long Island Sound, and the Great Lakes, the bill provides financial incentive to those States to undertake the responsibility for establishing management programs for each State's coastal and estuarine zone. No attempt is made to diminish State authority by Federal preemption, but rather to enhance it by encouraging and assisting the States to assume planning and regulatory powers over their coastal and estuarine zones.

#### NEED FOR NEW LEGISLATION

The United States is currently experiencing in its coastal and estuarine zones a phenomenon prevalent in most coastal nations in the world. This phenomenon is well expressed in the recent report, "Man in the Living Environment":

About 70% of the earth's population lives within an easy day's travel of the coast, and many of the rest live on the lower reaches of rivers which empty into estuaries. Furthermore, coastal populations are increasing more rapidly than those of the continental interiors. Seventeen percent of the world's oil production now comes from offshore (continental shelf) fields [and may be as much as 30% of total global production by 1980]. Sedimentary rocks, like phosphorite, and placer deposits of tin and gold are most abundant along the continental margins. Mineralized crystalline rock, though covered with sediment, extends under the continental shelves. In view of dwindling reserves and increasing demand for oil, gas, heavy metals and phosphates, the coastal marine environment undoubtedly will be subject to rapidly increasing pressure from the exploitation of minerals.

Settlement and industrialization of the coastal zone has already led to extensive degradation of highly productive estuaries and marshlands. For example, in the period 1922-1954 over one-quarter of the salt marshes in the U.S.A. were destroyed by filling, diking, draining or by constructing walls along the seaward marsh edge. In the following 10 years a further 10% of the remaining salt marsh between Maine and Delaware was destroyed. On the west coast of the U.S.A. the rate of destruction is almost certainly much greater, for the marsh areas and the estuaries are much smaller. ("Man in the Living Environment", Report of the Workshop on Global Ecological Problems, The Institute of Ecology, 1971, at p. 244). (Bracketed material added.)

The problems of the coastal zone are characterized by burgeoning populations congregating in ever larger urban systems, creating growing demands for commercial, residential, recreational, and other development, often at the expense of natural values that include some of the most productive areas found anywhere on earth. Already 53% of the population of the United States, some 106,000,000 people, live

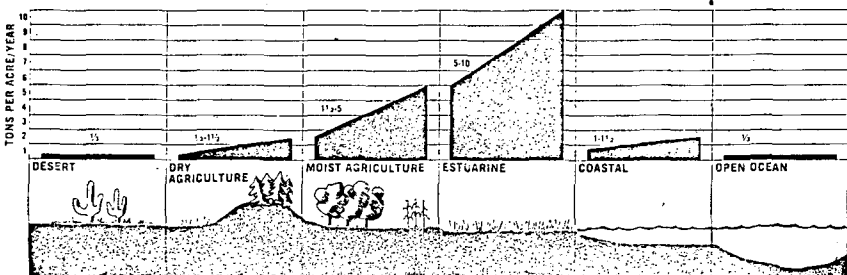
within those cities and counties within 50 miles of the coasts of the Atlantic and Pacific Oceans, the Gulf of Mexico, and the Great Lakes. Some estimates project that by the year 2000 80% of our population may live in that same area, perhaps 225,000,000 people.

Only the space available for that increased population will not change significantly in the next thirty years. The demand for that limited space will increase dramatically. Land development, urban development, recreation, conservation interests, international trade, industry, transportation, national security, and many other activities are all involved in the competition. But there are only 88,600 miles of shoreline on our Atlantic, Pacific and Arctic coastlines, and another 11,000 miles of lakefront on the Great Lakes.

Nationally it is estimated that we shall need to construct 26,000,000 new housing units by 1978, and because of the population trends, most of that will be in the coastal states. And with that population will come increased demand for recreation. Over 30,000,000 people now turn to the coasts annually for swimming; 40,000,000 are projected by 1975. Sport fishing absorbs the interest of 11,000,000 people today in coastal areas; 16,000,000 are estimated by 1975. Pleasure boating today engages over 10,000,000; by 1975 this will be 14,000,000. By 1975 our park and recreation areas will be visited by twice as many as they are today; and by the year 2000, perhaps a tenfold increase.

The demand for electric power currently doubles every ten years. By 1990 some estimate that it will be over 280% of today's demand, and most assuredly it will happen in the coastal zone if population trends are borne out. Power plants compete for valuable coastal lands and usually take over 1200 acres each. Offshore sites for such plants are now being considered in the New York and New Jersey areas, as a possible solution to some of the major siting problems confronting the power industry. In this connection, there presently are pending before the Committee on Commerce several bills dealing with the problem of powerplant siting which seek to assure protection of environment values while facilitating construction of needed electric power supply facilities.

Seventy percent of the present United States commercial fishing takes place in coastal waters. Coastal and estuarine waters and marshlands provide the nutrients, nursing areas, and spawning grounds for two-thirds of the world's entire fisheries harvest. And these areas may be even more important for aquaculture in the future, for they are among the most productive regions of the world. Most estuarine areas equal or double the production rates of the best upland agricultural areas; from 15-30 times the productivity of the open oceans.



Comparative production rates among terrestrial and aquatic systems. Source: Redrawn from Teal and Teal, 1969, in "Man in the Living Environment", Report of the Workshop on Global Ecological Problems, The Institute of Ecology, 1971

Recognizing the importance of the coastal zone, the Commission on Marine Science, Engineering and Resources devoted its first substantive chapter of "Our Nation and the Sea" to management in this important area. The opening paragraphs of that chapter quickly focus on the basic needs and problems of coastal and estuarine zone management:

The coast of the United States is, in many respects, the Nation's most valuable geographic feature. It is at the juncture of the land and sea that the great part of this Nation's trade and industry takes place. The waters off the shore are among the most biologically productive regions of the Nation.

The uses of valuable coastal areas generate issues of intense State and local interest, but the effectiveness with which the resources of the coastal zone are used and protected often is a matter of national importance. Navigation and military uses of the coasts and waters offshore clearly are direct Federal responsibilities: economic development, recreation, and conservation interests are shared by the Federal Government and the States.

Rapidly intensifying use of coastal areas already has out-run the capabilities of local governments to plan their orderly development and to resolve conflicts. The division of responsibilities among the several levels of government is unclear, and the knowledge and procedures for formulating sound decisions are lacking. \* \* \* ("Our Nation and the Sea", GPO 1969, at p. 49)

More recently the National Governors' Conference adopted a strong policy on coastal zone management, stating in part:

The coastal zone presents one of the most perplexing environmental management challenges. The thirty-one States which border on the oceans and the Great Lakes contain seventy-five percent of our Nation's population. The pressures of population and economic development threaten to overwhelm the balanced and best use of the invaluable and irreplaceable coastal resources in natural, economic and aesthetic terms.

To resolve these pressures, two actions are required. First, an administrative and legal framework must be developed to promote balance among coastal activities based on scientific, economic, and social considerations. This would entail mediating the differences between conflicting uses and overlapping political jurisdiction.

\* \* \* \* \*

The ultimate success of a coastal management program will depend on the effective cooperation of federal, state, regional, and local agencies \* \* \*. ("Policy Positions of the National Governors' Conference, September 1971, at p. 34).

Despite the features enumerated, a question remains, why single out the coastal and estuarine zone for special management attention? It is clear that environmental systems of the earth—physical, chemical, geological, or biological, terrestrial, aquatic, or atmospheric—are a continuum. Being a continuum, it might be argued that one should not separate the systems. But experience in government shows otherwise in order to achieve comprehension and manageability. The coastal zone is where the demands, needs, and problems of greatest consequence are already taking place, and where they will focus in the near future. The wetlands, beaches, and other prime areas are in great demand for a variety of uses, such as surface minerals, sub-aqueous lands, subsurface minerals, as well as other natural values. Many of the biological organisms in the coastal zone are extremely important economically, aesthetically, ecologically, and are dependent upon the quality of the waters in that area. How we use, develop, preserve, and restore that area will have profound impact on our well-being. As stated by Dr. William Hargis, Director of the Virginia Institute of Marine Sciences, Vice Chairman of the National Advisory Committee on Oceans and Atmosphere, and Chairman of the Coastal States Organization of the Council of State Governments: "The coastal zone is the 'key' or gate to the oceans. Effective management in the coastal zone almost automatically assures control over quality of ocean environments and quantity of resources." (Committee on Commerce hearings, "Coastal Zone Management" Serial No. 92-15, at p. 262).

The coastal zone is a different regime socially. Most of the people of the United States live in it or near it, and it is there that the greatest contests between public and private interests take place. The zone is a different industrial and commercial regime from the rest of the United States: it is where the greatest commercial and industrial development is taking place due to global transport patterns and to location of population. And the coastal zone is a politically complex regime: its importance intricately involves local, state, regional, national, and international political interests.

*Land and water use management.* Although local governments possess considerable authority in the coastal and estuarine zone, frequently their jurisdiction does not extend far enough to deal fully and effectively with the problems of that zone. Often local government has not been able to resist the temptation to develop the coastal and estuarine zone. The need to create revenues to provide governmental services demanded by a growing population creates pressure for commercial, residential, and other economic development. Local government has continuing authority and responsibility in the coastal and estuarine zone, but also needs financial, planning, political and other assistance to avert irremediable damage to natural values in that zone.

The Committee has not been able to find widespread coastal zone management programs at the local level, although there are undoubtedly notable exceptions. One such exception is the regional plan recently adopted by both Nassau and Suffolk Counties for Long Island and its adjacent waters, which was initiated by the Nassau-Suffolk Regional Planning Board in 1965. Preparation of the plan included

careful contract studies and creation of a Marine Resources Council to discern and plan for the interrelationships of land and water uses on Long Island. The plan is notable for its comprehensiveness, its range, and its concern for the interaction of land and water uses. Where local government has prepared comprehensive plans and programs which fulfill the requirements of Federal and State coastal zone management legislation, such local plans and programs should be incorporated into the State management program.

Until recently, local government has exercised most of the States' power to regulate land and water uses. But in the last few years a transition has been taking place, particularly as the States and the people have more clearly perceived the need for better management for the coastal and estuarine zones. There have been many well-publicized problems arising from the failure of State government to retain its power to regulate land and water uses, and the inability of local government to deal adequately with the pressures which call for economic development within the coastal and estuarine zone at the expense of other important values.

Some States have taken strong action. Hawaii undertook the first and most far-reaching reform of land use regulation in 1961, placing statewide zoning power in its State Land Use Commission. The entire State is divided into four zones: urban, rural, agricultural and conservation. County agencies have considerable authority to delineate allowable uses within the boundaries of some zones, subject to the general regulation of the Commission. The Commission has no enforcement arm of its own; enforcement of use restrictions in all zones remains with the counties. Hawaii's action, however, is predominantly land-related, and full consideration must be given to its surrounding marine environment.

Wisconsin's concerns for areas around lakes and waterways derived from their inventory of values in the rural landscape during the 1960's. The majority of those values appeared along waters and nearby lands, areas which were also under heavy development pressure. Their Shoreland Zoning Law is administered by the Division of Resource Development, and is applied to areas 1,000 feet around lakes and within 300 feet of river basins. The Division supervises counties having jurisdiction over such areas to ensure that the counties are making satisfactory progress toward adopting a shoreland zoning acceptable to the Division. The Division may impose its own ordinance where counties fail to act, or adopt an unsatisfactory ordinance. Minnesota adopted similar legislation in 1969.

Other States have also taken action. California's San Francisco Bay Conservation and Development Commission (BCDC) is a notable example of a State-created agency that has planned for San Francisco Bay. Membership on the Commission included a broad spectrum of Federal, State, local and private interests. The State legislature conferred on BCDC the power to require permits from both public and private entities seeking development in the Bay and within 100 feet of its adjacent shoreline. The permit authority was applied several times while the BCDC prepared its comprehensive plan for the Bay, a useful feature which prevented wholesale development of the Bay before the comprehensive plan was adopted.

One pattern among States that has developed in recent years is that of defining and taking control over certain land and water uses in particular geographic areas. Several States, led by Massachusetts in 1963, have enacted coastal wetlands laws requiring permits for the draining, filling and development of wetlands. The 1963 Act in Massachusetts authorizes the Department of Natural Resources to impose limitations upon developments sufficient to preserve the ecological conditions necessary for shellfish and marine fisheries, but does not authorize the Department to prohibit development. Massachusetts has additionally authorized the State to issue comprehensive "protective orders" recorded as conservation restrictions against deeds, a device which permits the State to determine in advance of particular proposals types of development what will be allowed. Under the order, some users are allowed without qualification, some are allowed subject to certain conditions, and some are allowed only by special permit. Other States that have enacted wetlands legislation include: New Hampshire (1967); Rhode Island (1971); Connecticut (1969); New Jersey (1970); Delaware (1971); Maryland (1970); North Carolina (1969); Georgia (1970); and Florida (1967).

The pattern of State action is by no means consistent. As desirable as are the measures taken to protect invaluable and irreplaceable wetlands, they deal with only a portion of the problems of the coastal and estuarine zone. More comprehensive programs are needed.

One of the most far reaching laws enacted in recent years has been that of Vermont, which established an independent regulatory State Environmental Board within their Agency of Environmental Conservation. The law also establishes district commissions which are authorized to grant or deny applications for the use of sites for developments and subdivisions. Permits are required from the State commission for construction of improvements for commercial or industrial purposes on land owned or controlled by common entity and exceeding 10 acres (or 1 acre when the town having jurisdiction has not adopted zoning or subdivision controls and housing projects consisting of 10 or more units within a radius of five miles. Lands above an elevation of 2500 feet are treated as areas of special State concern, and commercial industrial and residential development regardless of acreage or size above 2500 feet are subject to permits from the district commission. The Vermont law also requires adoption of an interim plan after the adoption of which the Environmental Board is directed to adopt a "capability and development plan," which will be designed to guide and coordinate development within the State and provide for the "distribution of population and of the uses of land for urbanization, trade, industry, habitation, recreation, agriculture, forestry and other uses. \* \* \*" Before the capability plan or the land use plan may be adopted, hearings must be held in each of the nine districts, with notice given to each municipality and municipal or regional planning commission.

In Maine, the Legislature enacted a new site location law in 1970, whereby commercial or industrial development on land area in excess of 20 acres, which contemplates drilling or excavating natural resources, or which involves a structure or structures in excess of 60,000 square feet on a single parcel is made subject to a permit from the

Environmental Improvement Commission. Anyone proposing to commence development covered by the Act must file with the Commission the notice of his intent and of the nature and location of the development. The Commission must either approve the proposal or schedule a hearing. The "Record of Intent" is a 25-page form designed to elicit extensive information from the developer, which is then reviewed by State and local agencies, including regional and local planning bodies. Denial of a development permit may not occur without a hearing. Approvals do not require hearings. The site location law establishes four criteria on which decisions are to be based: (1) financial capacity to meet State air and water pollution control standards, adequate provision for solid waste disposal, control of offensive odors, and securing and maintenance of a healthful water supply; (2) traffic movement, including loading, parking, and traffic movement from the development area onto public roads; (3) no adverse affect on natural environment, i.e., designed to fit harmoniously into the existing natural environment and not adversely affect existing uses, scenic character, natural resources, or property values in the municipality or in adjoining municipalities; and (4) soil types, i.e., building on soil types suitable to the nature of the construction.

The American Law Institute has estimated that at least 90% of the current land use decisions being made by local governments have no major effect on state or national interests. Local government should retain control over the great majority of matters which are only of local concern. The range of problems that arise in the coastal and estuarine zone, however, in some instances, calls for wider jurisdictional range than exists at the local level. It is the Committee's intent to recognize the need for expanded State participation in the control of land and water use decisions involving important State or regional interests. The State should become the focal point for developing comprehensive plans for the coastal and estuarine zone, drawing on local, regional, State, Federal, and private interests in the planning and management process.

In adopting the States as the focal point for development of comprehensive plans and implementation of management programs for the coastal and estuarine zone, the Committee has concluded that the States have, in varying degrees, the resources, administrative machinery, enforcement powers, and constitutional authority on which to build a sound coastal zone management program.

Coastal zone management must be considered in terms of the two distinct but related regimes of land and water. The law of land-use management is highly developed, both as to economic development and as to preservation of open space and other environment and conservation interests. Management of underwater lands and their superjacent waters is a much less developed area of law, but one in which the States have considerable constitutional authority.

With respect to land-use management, the States have reposed in them by the Constitution of the United States the police power necessary to enforce land-use regulations. In most States that power has been delegated to local government, and in some cases the State constitution vests local government with that authority. But in neither case is it inconsistent for the State to take a more active and stronger role in

the development of management programs for the coastal and estuarine zone. The bill proposed by the Committee provides three methods by which a State may comply with the provisions of this legislation, varying in degree of State involvement and control.

The principles on which State authority with respect to water regimes are based date back at least to Magna Carta, and have been subject to a variety of interpretations in the State and Federal Courts of the United States. These interpretations stem from the common law principle that both the title and dominion of rivers and arms of the sea, where the tide ebbs and flows, and all the lands below the high water mark, are in the sovereign. When the Union was created the States retained ownership of the tidelands and lands under navigable waters within their boundaries as an attribute of their sovereignty. Such title is held by each State in trust for its people. The public trust relates not only to ownership of tidelands and submerged lands, but also provides a rationale for public regulation of their use, regardless of ownership. For a fuller description and discussion of the problems of regulation of land and water uses in the coastal zone, see Chapter 8, "Developing Law in the Coastal Zone", found in Volume I of the Panel Reports of the Commission on Marine Science, Engineering and Resources, beginning at page III-107.

Beset by financial problems and having yielded much of their land-use regulatory authorities to local governments the States need assistance in assuming responsibility for management of their coastal and estuarine zone. Evidence is clear that the interest to manage the coastal and estuarine zone already exists within most of our coastal States. The States now need financial assistance to help them undertake their responsibilities.

This bill is designed to assist the States in finding a workable method for State, local, regional, Federal and public involvement in land and water use regulation. Proper management of the coastal and estuarine zone must take all of these interests into consideration in any plan that might be promulgated. But in light of the competing demands and the urgent need to protect our coastal and estuarine zone the existing institutional framework is too diffuse in focus, neglected in importance, and inadequate in the regulatory authority needed to manage that zone responsibly. The key to more effective use of the coastal and estuarine zone in the future is introduction of management systems permitting conscious and informed choices among the alternatives. Assisting in the establishment of such systems is the object of this bill.

#### LEGISLATIVE HISTORY

The roots of this legislation extend at least to the 89th Congress, if not to previous Congresses. In the 89th Congress several years of effort culminated in the creation of the Commission on Marine Science, Engineering and Resources by the Act of June 17, 1966 (80 Stat. 203, 33 U.S.C. 1101). From the outset, the Commission recognized the overriding importance of the coastal zone, and designated one of its panels to prepare a report on the coastal zone. The Commission further highlighted the importance of the coastal zone by devoting the first substantive chapter of its report to "Management of the Coastal Zone."



In response to the Commission's recommendation for Federal coastal zone management legislation, Senator Magnuson introduced S. 2802 late in the first session of the 91st Congress. One day of hearings was held on the subject in December 1969. Subsequently, in the second session of the 91st Congress, other bills were introduced, including S. 3183, by Senator Boggs on behalf of the Administration, and S. 3460, by Senator Tydings.

S. 3183 derived from recommendations of the Department of the Interior in its National Estuarine Study, performed pursuant to the Estuary Protection Act, Public Law 90-454, reported by the Committee on Commerce on July 17, 1968 (Senate Rep. No. 90-1419). The Subcommittee on Oceanography, chaired by Senator Hollings, held seven days of hearings from March through May 1970, at which 29 witnesses were heard. In addition, 55 articles, letters, and statements were received by the Subcommittee and incorporated into the record of its hearings, which were published as Serial No. 91-59. The hearings and the statements provided several new ideas that were incorporated in a redrafted bill prepared by the Subcommittee. The Subcommittee also drew substantially upon ideas contained in S. 3183. The redrafted bill was considered by the Subcommittee and ordered reported favorably to the Committee on Commerce late in the 91st Congress, but too late for final consideration by the Committee before the Congress adjourned *sine die*.

Early in the 92d Congress, Senator Hollings introduced the Subcommittee-approved bill, which became S. 582, the bill now under consideration. Shortly thereafter, Senator Tower introduced S. 638, which was also based on the Subcommittee bill, but modified to obviate some of the objections expressed by the Administration to the Subcommittee bill in the 91st Congress. Between Congresses, however, the Administration became convinced that more broadly based land use management legislation was both desirable and necessary. Its proposed National Land Use Policy Act of 1971 was introduced on behalf of Senator Jackson (by request) as S. 992.

During the first session of the 92d Congress, the Subcommittee on Oceans and Atmosphere, formerly the Subcommittee on Oceanography, held an additional three days of hearings during May 1971. Fifteen witnesses were heard and 39 new letters, articles and publications were received for the record, which was published by the Committee as Serial No. 92-15.

In the ensuing period, S. 582 was redrafted by the Subcommittee, incorporating additional ideas from S. 638 and S. 992, which the Subcommittee felt strengthened the bill. The Subcommittee also drew substantially upon ideas propounded by the Council on Environmental Quality, whose assistance was invaluable. The Subcommittee reported the bill favorably to the Committee on Commerce on August 4, 1971, and on September 30, 1971 the Committee ordered the bill reported favorably with amendments.

#### DEPARTMENTAL OPINIONS

During the 91st Congress, testimony was received from the Honorable Walter J. Hickel, Secretary of the Interior; Mr. E. I. Dillon, then Acting Executive Secretary of the National Council on Marine

Resources and Engineering Development; and the Honorable Robert A. Frosch, Assistant Secretary of the Navy for Research and Development, representing their various departments and agencies. In addition, the Department of Commerce submitted comments on the re-drafted bill.

During hearings in the 92d Congress, the Honorable Russell Train, Chairman of the Council on Environmental Quality; the Honorable Samuel Jackson, Assistant Secretary, Metropolitan Planning and Development, Department of Housing and Urban Development; the Honorable Harrison Loesch, Assistant Secretary, Public Land Management, Department of the Interior; and the Honorable Murray L. Weidenbaum, Assistant Secretary of the Treasury for Economic Policy were heard. Opinions have been submitted by the Comptroller General, the Department of the Interior, the Environmental Protection Agency, and are incorporated herein.

#### COMMITTEE AMENDMENTS AND SECTION-BY-SECTION ANALYSIS

The following is a sectional analysis of the first Committee amendment, which is in the nature of a substitute text:

The bill amends the Act entitled the "Marine Resources and Engineering Development Act of 1966" (33 U.S.C. 1101 et seq.), by adding at the end thereof a new title III.

Section 301. The short title of the bill is the "National Coastal and Estuarine Zone Management Act of 1971."

Section 302. *Congressional Findings.* This section contains several findings concerning the national interest in effective management of the Nation's coastal and estuarine zone. It includes findings concerning the zone's diverse values and the increasing and competing demands upon that zone as a result of population growth, economic development, wastes disposal, a desire to preserve and enhance natural systems. In addition it cites the need for open space, the ecological fragility of the zone, and the need for more effective management in that area.

In citing the conflicts between man's activities in the coastal zone and natural systems in that area, it is intended to call attention to the fact that national policy for coastal and estuarine zone management should give a priority to those uses which are compatible with the productive functioning of coastal natural systems, and where development is permitted it should be designed to minimize damage to those natural systems. Ecological knowledge will be fundamental from the initial phases of development of coastal and estuarine zone management programs throughout their life span. Ecologically based development and planning already has shown that in many situations it is possible to minimize adverse impacts of development and to maximize developmental benefits if there is an understanding of the natural systems affected. This kind of understanding is particularly important in coastal situations where filling, dredging, discharging of wastes, mining, obstructing tidal or current flows, or removing vegetation may generate unforeseen and destructive effects on highly desirable and useful functions.

Section 303. *Declaration of Policy.* Stating a policy to preserve, protect, develop, and where possible to restore the resources of the coastal and estuarine zones of the United States, Congress declares that it is

necessary to encourage and assist the coastal states to exercise their responsibilities effectively over the Nation's coastal and estuarine zones. It calls for the preparation and implementation of management programs to achieve wise use of the coastal and estuarine zones, giving full priority to ecological, cultural, historic, and aesthetic values as well as to the needs for economic development. All Federal agencies engaged in programs of the coastal and estuarine zone have a duty and responsibility to cooperate and participate in accomplishing the purposes of the Act. Congress also encourages the participation of the public, Federal, State, local governments, regional agencies, and port authorities, in the development of coastal and estuarine zone management programs.

The words "participate" and "participation" are used advisedly to mean more than mere cooperation or coordination in the preparation of the management programs. By use of the word "participation" in this section and subsequently in the Act, the Committee intends to emphasize the need for positive participation by State agencies, local government, regional and Federal agencies in the preparation of the coastal and estuarine zone programs. In adopting and stressing the importance of participation at all levels of government in the planning process, we were impressed by the statement of Mr. Sidney Howe, President of the Conservation Foundation.

Understanding can be facilitated best, and polarization can be diminished, if the three levels of government can work together from the beginning.

Several ongoing intergovernmental planning efforts in coastal areas suggest that joint planning is workable. For instance, in the case of the New England River Basins Commission, a joint federal-interstate body established under the Water Resources Planning Act, the federal government and seven states are embarking on coastal zone planning (though not management) on a cooperative, joint-participation basis.

We are also impressed with the experience of California's San Francisco Bay Conservation and Development Commission, an intra-state coastal zone agency with both planning and management responsibilities. The three levels of general government, plus a regional council, are represented on the Commission. Its 27 members include 2 federal representatives and 13 local government representatives, each of whom must be a county supervisor or elected city official. (The others, five state officials, and seven representatives of the public appointed by the governor and legislature.)

BCDC members report that the liaison provided by the BCDC's two federal members has been vital to its success. BCDC's local government members comprise nearly a majority of the Commission; they are full-fledged participants in all Commission business. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59, at p. 975).

Section 304. *Definitions.* For the purposes of the Act, the terms "areas of critical environmental concern", "coastal and estuarine zone", "coastal state", "estuarine sanctuary", "estuary", "key facili-

ties", "land and water uses of regional benefit", "large scale development", "management program", and "Secretary", are defined in Section 304.

"Areas of critical environmental concern" are defined as those areas where uncontrolled development could result in irreversible damage to a variety of values and natural processes of more than local significance, or unreasonably endanger life and property because of natural hazards of more than local significance. The definition specifically includes coastal wetlands, marshes and other lands inundated by the tides; beaches and dunes; estuaries, shorelands, and floodplains of rivers, lakes, and streams, rare or valuable eco-systems, scenic or historic areas, and any additional areas that a State may decide to include. During the Committee's hearings, it was learned that a significant proportion of the coastal counties of the United States have no zoning or other land use regulatory systems in operation. Where a State designates an area of critical environmental concern it is contemplated that it will indicate the reasons why that particular area is so designated, the dangers that might result from uncontrolled or inadequate development of the area, the objectives to be achieved by development of the area if development is to be permitted, and the guiding principles for development or preservation of the area. It is not contemplated by the Committee that the entire coastal and estuarine zone of a State will be designated as an area of critical environmental concern, but rather that such designation will be selective.

"Coastal and Estuarine Zone" is defined so as to establish both an inward and an outward limit.

The outer limit of the zone is set as the outer limit of the territorial sea of the United States and the international boundary between the United States and Canada in the Great Lakes. The seaward extension of the coastal and estuarine zone definition is expressly limited to the outer limits of the territorial sea, the area within which the State has clear authority to act, and in which there are no pressing conflicts with international law. Nevertheless, the Committee recognizes that such limitations would not support planning and implementation of a management program in areas such as those between the Channel Islands and the mainland of California which have functional interrelationship. In Section 313(b) of the bill, all Federal agencies conducting or supporting activities in the coastal and estuarine zone are required to administer their programs consistent with approved State management programs. Such requirement does not convey, release, or diminish any rights reserved or possessed by the Federal government under the Submerged Lands Act (43 U.S.C. 1301 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.). The said seaward area is subject to reasonable conditions imposed to protect the national interest in defense and national security. However, any lands or waters under Federal jurisdiction and control, where the administering Federal agency determines them to have a functional interrelationship from an economic, social, or geographic standpoint with lands and waters within the territorial sea, should be administered consistent with approved State management programs except in cases of overriding national interest as determined by the President.

The inner boundary of the coastal and estuarine zone is defined as

seven miles, measured from mean high water, provided that where such line divides a political subdivision or a planning unit, the State may opt to include the entire political subdivision or planning unit in the coastal and estuarine zone for the purposes of this legislation. Initially the Committee left definition of the inner boundary of the coastal and estuarine zone flexible in order to permit each coastal State to define the lands and internal waters that would be included in its coastal and estuarine zone. However, with the advent of the national land use policy legislation, it became desirable to define the inner boundary in order to avoid overlap. No single definition will satisfy the needs of all coastal States. Therefore the Committee has combined geographical distance with an option to the states to include entire political subdivisions or planning units within the ambit of this legislation.

The Committee expects as a minimum that beaches, salt marshes, and coastal and intertidal areas such as sounds, embayments, harbors, and lagoons, will be included in the States' coastal and estuarine zones. Beyond that great disparity exists in the approaches that States have taken in defining their coastal zones. Some States, such as Virginia and Georgia, may use regional planning districts, a particularly useful approach in other Federally funded planning programs. Other States may use a combination of political jurisdiction and geographical distance or natural features in defining the coastal and estuarine zone. The intent of the Committee is that the zone chosen by the State should be sufficiently large to permit effective management programs for the diverse land and water uses of the area.

"Key facilities" defines those facilities which tend to induce development having an impact of more than local significance upon the environment. The concept is sufficiently comprehensive not only to include major airports, highways and highway interchanges, recreational facilities, which are specifically mentioned in the definition but also other public and private facilities which may be designated by the States. As in the case of designating "areas of critical environmental concern," selectivity is obviously required.

"Land and water uses of regional benefit" are uses that characteristically provide benefits to an area beyond the boundaries of a single local government, but that may cause problems within the local area. In contrast to the concept underlying "large scale development", the Committee contemplates that the State coastal and estuarine zone management programs will call for development of specified areas of the zone, because of the benefits to be derived by the State or region. Sometimes such development might meet strong local opposition, such as the siting of a power plant, or building of a marina, yet development in the specified area might be more beneficial to the State or region and less destructive of natural values if placed there than elsewhere in the zone. Just as there must be a mechanism to provide for preservation of certain areas of the coastal and estuarine zone, there must also be a mechanism to provide for development to meet the needs of the zone.

"Large scale development" is defined as that development which presents issues of more than local significance because of its magnitude or the magnitude of its effect upon the surrounding environment. Such development might include new communities, or development such as shopping centers, which generate a large amount of pedestrian or

vehicular traffic, or development that draws a large number of users. Other development might create a serious potential for pollution even though it attracts but a few people or occupies a small amount of space. Such development could also be included as large scale development. Still other types of development that might be included in the term are those that occupy a large land area.

"Management program" is the operative term used throughout the legislation to refer to the process by which a coastal State proposes (1) to manage land and water uses in the coastal and estuarine zone, particularly in areas of critical environmental concern and areas surrounding key facilities, (2) to insure that local regulations do not restrict or exclude land or water uses of regional benefit, and (3) to control large scale development within its coastal and estuarine zone. Included in the term is the development of a comprehensive plan and the development of the governmental structure capable of implementing such a plan. In adopting the term "management program", the Committee seeks to convey the importance of a dynamic quality to the planning undertaken under this Act that permits adjustments as more knowledge is gained, as funding levels at both the Federal and State levels are adjusted, as new technology develops, and as social aspirations are more clearly defined. It is not the Committee's intent to provide for the adoption of State coastal and estuarine zone management plans that are static, but rather to create a mechanism for continuing review of coastal and estuarine zone plans and programs on a regular basis and to provide a framework for the allocation of resources that are available to carry out those plans. The Committee intends that the framework provided in this legislation should be administered to promote the dynamic qualities inherent in the term "management program".

"Secretary" is defined as the Secretary of the Department in which the National Oceanic and Atmospheric Administration (NOAA) is operating. Administration by NOAA was originally recommended by the Commission on Marine Science, Engineering and Resources. After careful review the Committee believes that NOAA is the best qualified agency to undertake the complexities of coastal and estuarine zone management program because of its capabilities for dealing with the interaction of land and water problems. Several other Federal management arrangements were considered by the Committee, but were rejected in favor of NOAA. The experience of NOAA in the coastal and estuarine zone is well known. Enumeration of the activities of the National Oceanic and Atmospheric Administration in the coastal and estuarine zone indicates a significant beginning capability to administer this legislation properly. Most of the other agencies and administrative arrangements at which the Committee looked were almost exclusively land oriented.

Section 305. *Management Program Development Grants.* Under Section 305, the Secretary is authorized to make annual grants to assist the coastal States in the development of management programs for the land and water resources of the coastal and estuarine zone. The grants are not to exceed two-thirds of the cost of such program development in any one year, and are limited to a period of three years. From testimony received, it is estimated that a three-year period will be adequate for a State to arrive at a management program.

Inasmuch as the cost of preparing management programs will vary from State to State, the Committee has provided a range, stated as a percentage of the total amount appropriated to carry out the purposes of the management program development section, i.e., not greater than 10% nor less than 1% for allotment to the States. This does not mean that a State must be able to match funds equal to 1% of the total amount appropriated to be eligible to participate in the program. It is merely intended to insure that not less than 1% of the funds appropriated will be available to each participating State. The amount drawn down from the fund by any given State will depend upon the amount of Federal funds it matches with State funds under this section.

Section 305(b) requires inclusion of six elements in the management program: (1) identification of the boundaries of the coastal and estuarine zone; (2) definition of those areas of critical environmental concern, key facilities, large scale development and land and water uses of regional benefit; (3) inventorying and designation of areas of critical environmental concern, key facilities, and large scale development; (4) identification of the means by which the State will exert control over particular development and uses; (5) identification of the means by which the State will assure that local regulations do not restrict or exclude land and water uses of regional benefit; and (6) description of the organizational structure of the State government proposed to implement the management program.

The Committee has inserted a new subparagraph (f) providing that grants or portions thereof not obligated by a State during the fiscal year for which they were first authorized to be obligated by that State or the fiscal year immediately following, shall revert to the Secretary and be added by the Secretary to the funds available for grants. The purpose of this section is to encourage the States to act expeditiously to begin development of the coastal and estuarine zone management program. The subsection grants two years for the money to begin to be used, and thereafter to revert to the Secretary.

Subsection (g) permits a coastal State to allocate a portion of its management program development grant to an interstate agency or an area-wide agency designated under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, 80 Stat. 1255). The intent of this subsection is to acknowledge the important contributions to planning being made by interstate regional agencies such as river basin commissions, economic development commissions, and by regional councils of governments to improved planning and management of land and water that require planning by more than one State. In addition, this section will permit regional economic development commissions, whose jurisdiction includes the coastal and estuarine zone of particular States, to assist the coastal States in the planning.

In an attempt to indicate the scope of the management program, but without limiting its content, it is suggested that the following areas should be considered for inclusion:

- (1) Tides and currents, including their effect upon beaches and other shoreline areas;
- (2) Floods and flood damage prevention;
- (3) Erosion, land stability, climatology, and meteorology;

(4) Ecology, including estuarine habitats of fish, shellfish, and wildlife;

(5) Recreation, including beaches, parks, wildlife preserves, sport fishing, swimming, and pleasure boating;

(6) Housing;

(7) Transportation, ground, water and air, to, through, and within the coastal and estuarine zone, including new methods of transportation contemplated;

(8) Open space, including educational and natural preserves, scenic beauty, and public access to the coastline and coastal and estuarine areas, both visual and physical;

(9) Ports and navigation;

(10) Commercial fishing;

(11) Mineral exploitation and exploration, including oil, gas, and other minerals;

(12) Power needs and other utilities;

(13) Water supply and water quality, including sewage plants and outfalls, thermal and radioactive pollution, discharges of liquid pollutants, and solid waste management;

(14) Areas best suited for agricultural, aquacultural, mineral, industrial, commercial, and housing development;

(15) Present uses, known proposals for changes, and long term requirements;

(16) Present ownerships, including administration of publicly owned properties;

(17) Present laws and regulations on land and water uses, and activities by all levels of government;

(18) Present population and future trends, including impact of population and future trends, including impact of population growth on the coastal and estuarine zone environment. Environmental characteristics, population patterns, urban, industrial, port, and other developments vary from State to State.

The listing above is only indicative; a comprehensive management program should deal with a full range of activity within the scope of the legislation.

Section 306. *Administrative Grants.* On completion of development of the State's management program, and approval by the Secretary of Commerce, the Secretary is authorized under section 306 to make grants up to two-thirds of the cost of implementing specific programs consonant with the State's management program. As in section 305, such grants may be allotted to the States in accordance with a percentage range (i.e., not in excess of 10% nor less than 1% of the total amount appropriated to carry out the purposes of such administrative grants). As under section 305(a), this does not require a State to match 1 percent of the total amount appropriated to be eligible for participation.

Prior to granting approval of a management program submitted by a coastal State, the Secretary must make eight specific findings: (1) The State has developed and adopted a management program for its coastal and estuarine zone in accordance with rules and regulations promulgated by the Secretary, which is adequate to carry out the purposes of the Act; (2) the State has coordinated its management



program with metropolitan-wide plans developed by area wide agencies designated under the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, 80 Stat. 1255), and coordinated with neighboring States as to lands and waters in interstate areas; (3) the State has held public hearings in the development of the management program; (4) the management program and any changes thereto have been reviewed and approved by the Governor; (4) the Governor has designated a single agency to receive and administer the grants; (6) the State is organized to implement the management program; (7) the State has the authorities necessary to implement the program; and (8) the State has assumed authority to control land and water uses in areas of critical environmental concern and in areas surrounding key facilities, to insure that local regulations do not restrict or exclude land and water uses of regional benefit, and to control large scale development.

Section 306(d) provides that prior to granting approval of the management program, the Secretary must find that the State has authority for the management of the coastal and estuarine zone in accordance with the management program. Such management authority can be exercised by the State through a chosen agency or agencies, where more than one agency has authority to act, or through local governments or areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. The authority must include power (1) to administer land and water use regulations, control public and private development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and (2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program. The Committee knows of no State that does not already have the authorities cited, either in the State government or in local government. Key to this subsection is the flexibility permitted to each State to determine the level of government through which such authority will be exercised.

Under section 306(e) the Secretary must find that the State, acting through its chosen agency or agencies, has provided, as a minimum: (1) for any one or a combination of three general techniques for control of land and water uses in areas of critical environmental concern, in areas surrounding key facilities, and for control of large scale development within its coastal and estuarine zone; and (2) for a method of assuring that local land and water use regulations within the coastal and estuarine zone do not restrict or exclude land and water uses of regional benefit. The three general techniques for control of land and water uses are: (A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance; (B) direct State land and water use planning and regulation; or (C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings. Unlike section 306(d), above, section 306(e) re-

quires that State government exercise any one or a combination of the general techniques enumerated, without delegation to local, regional, or other forms of government. The three general techniques vary in the authority that the State would exercise. One or two States already provide for direct State land use planning and regulation; most States do not repose such authority in State government, but have delegated such authority to local governments. Where such authority is delegated to local governments, or where the State constitution provides that local government is to exercise such authority, the State may opt for either of the two remaining general techniques and still qualify for administrative grants under the provisions of this Act.

Section 306(f) permits a State, with approval of the Secretary, to allocate a portion of the administrative grants to interstate agencies or to areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. However, such allocation is subject to the proviso that the State is not relieved of responsibility for ensuring that any funds so allocated are applied in furtherance of the State's approved management program.

Section 306(g) authorizes a State to amend its management program, subject to the procedures required under section 306(c). The Secretary must approve any amendment or modification before additional administrative grants are made to the State under the amended program.

Some States have already adopted programs for management of portions of their coastal and estuarine zone, such as the program adopted by the San Francisco Bay Conservation and Development Commission. Others, such as Alaska, might find comprehensive planning for the entire coastal and estuarine zone *ab initio* too great an undertaking even with the assistance provided under this legislation. Accordingly, section 306(h) provides that with the approval of the Secretary a State management program may be developed and adopted in segments so as to permit immediate attention to those areas which most urgently need management programs. However, the State must provide for the ultimate coordination of the various segments of the management program into a single program and for completion of the total program as soon as is reasonably practicable.

Section 307. *Public Hearings.* All public hearings required under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public at least thirty days before the hearing. Broad-based public participation in the planning for the coastal and estuarine zone is basic to this legislation. Unfortunate experience with comparable provisions of other legislation prompts the Committee to provide explicit standards for notice and hearings. Those standards provide not only for adequate notice of proposed hearings, in order to provide ample time for preparation, but also require all relevant documents, materials, studies, and proposed actions to be available to the public for advance study and preparation.

Section 308. *Rules and Regulations.* Provision for making rules and regulations to carry out the purposes of the Act also requires an opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested public and private parties.

Section 309. *Review of Performance.* Subsection (a) requires the Secretary to conduct a continuing review of the States' management programs and the performance of each State. The planning process and development of the management programs for each coastal State is essentially a continuing process, requiring continuing review. Procedures are required for program modification and updating. Connoted therein is an ongoing process reflective of changes in technology, of funding levels, of social expectations and understandings. The Committee is concerned that a static plan might be offered and then shelved, without recognizing the dynamics of the political process, the changing biophysical nature of the coastal and estuarine zone, and the institutional-management framework. Thus, the Committee has not only provided for a continuing process of review and updating of management programs by the States, but also for a continuing review by the Secretary.

(b) Where the Secretary determines that a State is failing to adhere to its approved coastal and estuarine zone management program and is not justified in deviating from that program, and where he has given notice of proposed termination and given an opportunity to present evidence on the proposed changes, he may terminate any financial assistance extended as an administrative grant under section 306. The Committee has considered and rejected several different proposals for penalties and sanctions for noncompliance with the terms of this legislation. Until experience dictates the need for greater sanctions than termination of financial assistance under section 306, the Committee believes that this sanction will suffice.

Section 310. *Records.* Each grant recipient is required to keep prescribed records, including those which fully disclose the amount and disposition of grants funds, the total cost of the program supplied from other sources, and other records to ease effective audit. The section requires that the Secretary and the Comptroller General of the United States, or their representatives, shall have access to records of the grant recipient that are pertinent to the determination that funds are used in accordance with the legislation.

Section 311. *Advisory Committee.* The Secretary is directed to establish a fifteen-member Coastal and Estuarine Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on policy matters concerning the coastal and estuarine zones of the States of the United States. Said Committee can serve an important function in extending Federal-State relationships, provide a forum, and make recommendations in mediating serious disagreements, provide a continuing review of Federal policy, and generally serve in a capacity that the Secretary might designate.

Section 312. *Estuarine Sanctuaries.* The Secretary is authorized to make grants up to 50% of the costs of acquisition, development, and operation of estuarine sanctuaries for creating field laboratories to gather data and make studies of the natural and human processes occurring in our Nation's estuaries. The estuarine sanctuaries are limited to 15, and the Federal share to no more than \$2,000,000 each. Federal grant funds for implementing the State coastal and estuarine zone management program under Section 306 may not be used to provide the State share of the costs of the estuarine sanctuaries under this section. Originally contemplated as a five-year program authorizing

appropriations of \$6 million for each of the next five fiscal years, by amendment authorization for the program was limited to \$6 million for its initial year.

The Committee envisions such sanctuaries as natural areas set aside primarily to provide scientists the opportunity to make baseline ecological measurements. Such measurements will be essential to many coastal and estuarine zone management decisions that will have to be made, as well as helping to predict the impact of human intervention on the natural ecology. These sanctuaries should not be chosen at random, but should reflect regional differentiation and a variety of ecosystems so as to cover all significant natural variations.

Scientific research and ecological data can aid significantly in providing a rational basis for intelligent management of the coastal and estuarine zone. In addition, such sanctuaries could be used to monitor vital changes in the estuarine environment; or forecast possible deterioration from anticipated activities. Dr. Eugene Odum, Director of the Institute of Ecology, University of Georgia, likened estuarine sanctuaries to "pilot plants": "Scientists have to have 'pilot plants' to check out broad theories on a large environmental scale, just as an industrialist would not want to market a product directly from a laboratory; he would want to have a 'pilot plant' study first." (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59, at p. 1254).

The choice of estuarine sanctuaries entails many difficulties. However, where baseline ecological studies of natural conditions are desired, estuaries without much development, industry or habitation in the watershed areas would be desirable. Dr. Joel Hedgpeth of Oregon State University commented on some possible locations:

In southern California, for example, there is nothing left. In northern California Tomales Bay, which might not fit some definitions, is an ideal candidate because of the ten years of study that has been carried out there and the circumstances that one entire shore (almost) is within control of the Point Reyes National Seashore. There are some interesting lagoons in northern California, just north of Eureka. In Oregon the most likely candidate seems to be Alsea Bay, but Netarts is also a good candidate. In Texas the Baffin Bay region of the Laguna Madre, and perhaps Copano Bay should be considered \* \* \*. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59, at p. 1258.)

Dr. B. J. Copeland of North Carolina State University recommended that "sanctuaries should be established to enable studying estuaries of various ecological types and under various ambient conditions", and gave these examples:

- A. Oligohaline estuary—Pamlico River, N.C.
- B. Medium salinity plankton system—Chesapeake Bay, Md.
- C. Tropical Estuary—Kaneohe Bay, Hawaii.
- D. Oyster Reef, grass flat—Barataria Bay, La.

E. Lagoon—Laguna Madre (Baffin Bay), Texas.

F. West Coast plankton system—Yaquina Bay, Oregon.  
(Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59 at p. 1259.)

Dr. Copeland stated that these types represent most of the estuaries in the United States with the exception of minor ones on rocky coasts and those in the Arctic.

The Committee is convinced that sound coastal and estuarine zone management must be based upon basic ecological considerations, and to this end are persuaded by the statement of Mr. Sydney Howe, President of the Conservation Foundation:

Traditionally, land-use planning is based largely on economic, engineering, design and transportation concepts that consider natural processes only partially and indirectly. The science of ecology—"the systems analysis of nature"—is concerned with the impact of man upon natural processes and the total consequences, including the effects on man and his works.

\* \* \* [N]ational policy for coastal management [should be] to give a priority to those uses which are compatible with the productive functioning of coastal natural systems and which cannot be provided elsewhere, and that where development is permitted it should be designed to minimize damage to these natural systems. Such decisions cannot be made without some understanding of these systems. Ecological knowledge, in short, should be a fundamental and initial basis of coastal zone planning and management.

Our own experience with ecologically based development planning already has shown that in many situations it is possible to minimize adverse impacts of development and maximize developmental benefits if one can understand the natural systems affected. This kind of understanding is particularly important in coastal situations where filling, dredging, discharging of wastes, mining, obstruction of tidal or current flows, or removing of vegetation may generate unforeseen destructive effects on highly desirable and useful functions and forms of life elsewhere in the system. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59, at p. 972.)

Establishment of estuarine sanctuaries will provide information valuable in itself, as well as information on which sound coastal zone management decisions can be based.

Section 313. *Interagency Coordination and Cooperation.* (a) Unless the views of Federal agencies principally affected by a State's coastal and estuarine zone management program are adequately considered, the Secretary is not authorized to approve that program. Where serious disagreement exists between a State and a Federal agency in the development of the management program, the Secretary is to seek to mediate the differences, in cooperation with the Executive Office of

the President. This mediation procedure recognizes the inherent difficulty for the Secretary to act as sole mediator between a State and another Federal agency, and provides for a higher level of interest and review to be invoked to help resolve conflicts that arise.

✓ (b) This subsection requires all Federal agencies conducting or supporting activities in the coastal and estuarine zone to administer their programs consistent with approved State management programs except in cases of overriding national interest as determined by the President. In order to determine whether Federal projects and activities are consistent with approved management programs, the subsection requires that program coverage procedures provided for and regulations issued under the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, 80 Stat. 1255) and Title IV of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577, 82 Stat. 1098) shall be applied. As noted previously, it is intended that any lands or waters under Federal jurisdiction and control, within or adjacent to the coastal and estuarine zone, where the administering Federal agency determines them to have a functional interrelationship from an economic, social, or geographic standpoint with lands and waters within the coastal and estuarine zone, should be administered consistent with approved State management programs.

Subsection (b)(2) of section 313 provides that Federal agencies shall not undertake any development project in the coastal and estuarine zone which, in the opinion of a State, is inconsistent with the approved management program of that State, unless the Secretary finds that the project is consistent, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security. The Committee does not intend to exempt Federal agencies automatically from the provisions of this Act. Inasmuch as Federal agencies are given a full opportunity to participate in the planning process, the Committee deems it essential that Federal agencies administer their programs, including developmental projects, consistent with the State coastal and estuarine zone management program. If not, the ordinary course for a State would be to file its complaint with the Secretary, and after the Secretary has received detailed comments from both the Federal agency and the State, the Secretary would make his own finding as to the consistency of the Federal developmental project with the state management program.

Where the Secretary of Defense informs the Secretary that a developmental project is necessary in the interest of national security, the Committee intends that the Secretary will make an independent inquiry and finding, as to the need for the project and its relationship to the State management program. It is not sufficient, for the purposes of this Act, that the Secretary of Defense inform the Secretary that the developmental project is needed in the interest of national security. All reasonable efforts should be made by the Secretary to reconcile national security needs and the state management program in the case of such conflicts.

Subparagraph (b)(3) of section 313 provides that after final approval by the Secretary of a State's management program, any applicant for a Federal license or permit to conduct any new activity in the

coastal and estuarine zone shall provide in the license or permit application a certification that the proposed activities complies with the State's approved management programs and that there is reasonable assurance that the activity will be conducted in a manner consistent with that program. The State is to establish procedures for public notice of such applications for certification and to provide for public hearings as appropriate. If a State agency fails to grant or deny a request for certification in six months, the certification requirements shall be waived. No license or permit shall be granted until either the certification has been obtained or waived, or the activity has been found by the Secretary to be consistent with the objectives of the legislation or necessary in the interest of national security, after having received detailed comments from Federal and State agencies and providing an opportunity for a public hearing. In addition, the Committee has provided that the requirements imposed on any Federal agency by the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852) shall be satisfied with respect to any matter considered under this Act by certification from the appropriate State agencies pursuant to this section.

Both as an aid to Federal licensing and permitting agencies, and to insure that development projects are consistent with a coastal state's management program, this subsection insures that before a Federal license or permit is issued to conduct any new activity affecting land and water uses it will be reviewed by an appropriate State agency and a certification of compliance supplied. Emphasis is placed upon "new" activity, that is, activity after the date of enactment of the legislation. It will thus be appropriate to distinguish between new activities, such as the building of a new marina, or the dredging of a new channel, as against the maintenance of existing facilities or activities.

With respect to the last sentence of the subsection, the recent case of *Calvert Cliffs Coordinating Committee v. Atomic Energy Commission*, 40 U.S.L.W. 2067 (July 23, 1971), decided, among other things, that as part of its environmental review procedures the Atomic Energy Commission must undertake an independent assessment of certain environmental factors, particularly water quality effects, even though other State or Federal agencies had already certified that a nuclear facility had met the relevant State or Federal standards. Such reexamination and redetermination, after determinations have been made by properly authorized State agencies, are repetitive, costly, and time consuming. Without removing the requirement for an independent assessment by a Federal agency, it is hoped that the requirements of the National Environmental Policy Act of 1969 can be met while not requiring duplication of the review process. Only where a Federal agency deems the State review to have been inadequate for the purposes of the National Environmental Policy Act of 1969 should a separate, independent assessment be required by the Federal agency.

Section 313(c) State and local governments submitting applications for Federal assistance in the coastal and estuarine zone are required under this subsection to indicate the views of the appropriate State or local agency as to the relationship of such activities to the State's approved management program. Federal agencies shall not approve proposed projects that are inconsistent with the management program,

unless the Secretary finds that the project is consistent with the purposes of the title or necessary in the interest of national security. Just as those who seek Federal licenses or permits must receive certification that the proposed project is consistent with the State's approved management program, so also must State and local governments seeking Federal assistance indicate the consistency of the proposed project with the approved State program.

Section 313(d) is a standard clause disclaiming intent to diminish Federal or State authority in the fields affected by the Act; to change interstate agreements; to affect the authority of Federal officials; to affect existing laws applicable to Federal agencies; or to affect certain named international organizations.

Section 314. *Annual Report.* The Secretary is required to submit an annual report to the President for transmittal to the Congress not later than January 1 of each year, covering the administration of the title for the preceding fiscal year. Among other things the report is to include the Secretary's recommendations for additional legislation to achieve the objectives of the title. The report shall also include a summary of a coordinated national strategy and program for the Nation's coastal and estuarine zones, identifying and discussing Federal, regional, State, and local responsibilities and functions therein. Throughout this legislation the States are the focal point for planning and managing the coastal and estuarine zones of the United States. In theory this legislation could result in 35 substantially different management programs lacking the warp and woof of a coordinated national strategy for the management of this invaluable resource. The Committee perceives that one of the important functions of the Secretary will be to develop such a strategy, working closely with the Coastal and Estuarine Zone Management Advisory Committee, and a wide range of diverse interests and interest groups. The results of that work are to be incorporated in the annual report, and will serve to assess current status and to guide future decisions.

Section 315. *Appropriations.* (a) There are authorized to be appropriated (1) \$12,000,000 for the fiscal year ending June 30, 1972, and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1976, for program development grants under section 305 of the Act, to remain available until expended; (2) not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for administrative grants under section 306, to remain available until expended; (3) not to exceed \$6,000,000 for the fiscal year ending June 30, 1972 for estuarine sanctuaries grants under section 312.

(b) There are also authorized to be appropriated not to exceed \$1,500,000 annually for administrative expenses incident to administration of the title.

The second Committee amendment is of a technical nature and amends the title of the Act to reflect the text.

#### COST OF THE LEGISLATION

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that



the cost of S. 582 will be as follows for the current fiscal year and succeeding five years:

[In millions]

	1st year	2d year	3d year	4th year	5th year
Planning (sec. 305).....	\$12	\$20	\$20	\$10	\$5
Implementation (sec. 306).....		50	60	70	75
Estuarine sanctuaries (sec. 312).....	6				
Administration.....	1.5	1.5	1.5	1.5	1.5
Total.....	19.5	71.5	81.5	81.5	81.5

The Committee is not aware of any estimates of costs made by any Federal agency which are different from those made by the Committee.

#### CHANGES IN EXISTING LAW

There are no changes in existing law resulting from this legislation.



## INDIVIDUAL VIEWS OF MR. HATFIELD

A great deal of effort has been expended over the past several years by the Committee on Commerce and, more particularly, its Subcommittee on the Oceans and Atmosphere in perfecting a bill to provide for planning and management of this nation's coastal zone land and water resources. The bill which this report accompanies is the result of those efforts. It is by and large a carefully drawn and well thought out piece of legislation. I do, however, have some reservations with respect to the use of funds to be provided under this legislation for the acquisition of lands and waters, including estuarine sanctuaries. I will go into these reservations later. I would first like to point out a significant improvement which was made in the bill by the Committee just prior to ordering it reported.

As all of us who represent coastal States are well aware, there are few organizational entities as important to the commercial life of our States as our port authorities. I was troubled, therefore, to find that while numerous other organizations were specifically named in the sections providing for cooperative development of the management plan, port authorities were not included among that list. While I was assured that the provisions mandating cooperation were sufficiently broad as to include port authorities, I was not convinced that they had been accorded sufficient standing vis-a-vis other organizational entities operating in the coastal zone. Therefore, I was pleased when the Committee accepted my suggestion that port authorities be included by name among the organizations to be consulted in the most important sections relating to the development of plans and programs for the coastal zone. As a result of this inclusion, the bill is, in my opinion, a better and more workable piece of legislation.

As a member of the Senate Committee on the Interior and Insular Affairs, I remain concerned, however, about the failure of the Committee to restrict the use to which funds for implementation may be used against their use to acquire land and water areas. If funds under this legislation are used for such purpose, it would appear to establish a regime for acquisition for lands and waters in the coastal zone which would compete with, if not conflict with, the provisions of the Land and Water Conservation Fund Act. That Act, administered by the Department of the Interior, is at present the principal source of funding for acquisition of outdoor recreation lands. Similarly, and for the same reason, I believe the authorization of funds for the acquisition of estuarine sanctuaries in this bill is ill-advised.

The latter provision was improved somewhat by an amendment offered by the distinguished ranking minority member of our Committee, the senior Senator from New Hampshire, Mr. Cotton, which limits authorization for appropriations for the program to a single year. However, I find no reason to believe that the program will not ultimately be extended to the full scope envisioned in the bill. Thus,

we have in effect authorized a five year program providing up to \$30 million in Federal matching funds for the acquisition of up to fifteen estuarine sanctuaries. Such funds should, in my opinion, be provided under existing programs and authorities rather than by the creation of an entirely new program for this admittedly worthwhile purpose.

In addition, the Committee added needed flexibility in its definition of the coastal zone. Allowing a State to utilize existing political subdivisions or planning units, even when they extend beyond the seven mile limit, will add to the practical implementation of the bill. It made little sense to break up existing state boundaries with an artificial limit, and would have worked a hardship in states with functioning planning units. The language added by the Committee will add measurably to the successful implementation of the bill.

MARK O. HATFIELD.

#### DEPARTMENTAL REPORTS

The following are reports from the various departments and agencies on the coastal and estuarine zone management bills (S. 582 and S. 638) on which the Committee held hearings in the 92d Congress, and on similar bills on which the Committee held hearings in the 91st Congress (S. 2802, S. 3183, and S. 3460) :

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., April 20, 1971.*

B-167694.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce, U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of February 26, 1971, requesting our views on S. 582 which would amend the Marine Resources and Engineering Development Act of 1966, as amended, to establish a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

We have no special information as to the advantages or disadvantages of the proposed legislation and therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et seq.* Consequently, line 8 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 *et seq.*)."

Page 6, line 3, of the bill refers to "Sec. 306." This should be changed to "Sec. 305."

Page 19, line 4, of the bill refers to "Sec. 313." This should be changed to "Sec. 314" and the following section appropriately renumbered.

Section 304(b), page 5, defines coastal and estuarine zone as extending seaward to the outer limit of the United States territorial sea. The International Convention on the Continental Shelf recognizes the sovereign rights of the coastal nation to explore the shelf and exploit

its natural resources. Therefore, the committee may wish to consider redefining the coastal and estuarine zone to include the continental shelf which the Convention defines as "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" and "the seabed and subsoil of similar submarine areas adjacent to the coast of islands."

Section 304(c), page 5, defines "Coastal State" as including Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia. We assume it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Section 305(a), page 6, of the bill authorizes the Secretary of Commerce to make annual grants to any coastal State in the development of a management plan and program for the land and water resources of the coastal and estuarine zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This provision appears to preclude grants to States which have not yet started to develop a management plan and program. The committee may wish to consider language changes which would allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a), page 7, of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 66⅔ per centum of the costs of administering the coastal State's management plan and program. Section 306(c)(4), page 8, of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of administering the management plan and program or if these grants are solely intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(b), page 7, of the bill states that grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary. This provision may not result in an equitable distribution of funds to each of the coastal States in that under section 306(i), page 12, a grant of an amount up to 15 percent of the total amount appropriated may be made to one coastal State. We believe that these grants should take into account the populations of such States, the size of the coastal or estuarine areas, and the respective financial needs of such States.

Section 307, page 12, authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 307 also states that the aggregate

principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140 million. We believe that the bill should further specify an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311, page 14, authorizes the Secretary to establish a coastal and estuarine zone management advisory committee composed of not more than 15 persons designated by the Secretary. The section does not (1) specify the term of service of the members, and (2) provide for the designation of a chairman. The committee may wish to provide for (1) the term or terms of service and (2) the selection of a chairman.

Section 313(a), page 15, should be clarified as it is now unclear whether it provides that States must adequately consider the views of principally affected Federal agencies prior to submitting their plans to the Secretary or whether the Secretary must adequately consider the views of principally affected Federal agencies prior to his approval of the States' plans. In either case, the committee may wish to set a specific time limit within which principally affected Federal agencies must submit their views.

The bill does not require a finding by the Secretary that the State's coastal and estuarine zone management plan and program be consistent with an applicable implementation plan under the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act of 1965, as amended. The committee may wish to add a section to the proposed bill to require such a finding.

Sincerely yours,

ROBERT F. KELLER,  
*Acting Comptroller General of the United States.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C. April 20, 1971.*

B-167694.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of February 26, 1971, requesting our views on S. 638 which would amend the Marine Resources and Engineering Development Act of 1966, as amended, to assist the States in establishing coastal zone management plans and programs. The bill would amend the act by adding title III which would, if enacted, be cited as the "National Coastal Zone Management Act of 1971."

The bill involves matters of policy for determination by the Congress and therefore we have no recommendation with respect to its enactment. However, we have the following comments concerning specific provisions of the bill.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et seq.* Consequently, lines 8 and 9 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. *et seq.*)."

Section 304(c) defines "Coastal State" as including Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia. We assume that it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Section 305 of the bill authorizes the Secretary to make annual grants to any coastal State for the purpose of assisting in the development of a management plan and program for the land and water resources of the coastal zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This language appears to preclude making grants to States which have not yet started to develop a management plan and program. The committee may wish to consider whether the bill should also allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a) of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 50 per centum of the costs of administering the coastal State's management plan and program.

Section 306(c) (4) of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of monitoring the management plan and program or if these grants are intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(c) (2) of the bill requires the coastal State to make provisions for public notice and to hold public hearings on the development of the management plan and program. All required public hearings under this title must be announced at least 30 days before they take place and all relevant materials, documents and studies must be readily available to the public for study at least 30 days in advance of the actual hearing or hearings. The committee may wish to increase the number of days notice for public hearings in order that the public may have advance notice that relevant studies and documents are to be available at least 30 days in advance of the hearings. This would give the public the benefit of the full 30 days to examine the relevant documents.

Section 307 authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 307 also states that the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140 million. We believe that the bill should further specify a maximum amount which the Secretary could guarantee for each bond issue or loan and an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311 authorizes and directs the Secretary to establish a coastal zone management advisory committee composed of not more than 15 persons designated by the Secretary. However, the bill does not (1) specify the term of service of the members, (2) include a provision for the designation of a chairman, and (3) include a provision that would require the Secretary to distribute membership to the advisory committee among various academic, business, governmental or other disciplines. We suggest that the committee consider inclusion of such provisions in the bill.

Section 312(a) of the bill states that the Secretary shall not approve the management plan and program submitted by the State unless the views of Federal agencies principally affected by such plan and program have been adequately considered. The bill does not, however, specify the time period within which the Federal agencies are to submit their views. The committee may wish to set a specific time limit for Federal agencies to consider a coastal State's management plan and program.

This bill does not require a finding by the Secretary that the State's coastal zone management plan and program be consistent with an applicable implementation plan under the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act of 1965, as amended. The committee may wish to add a section to the bill for this purpose.

The bill does not provide for the segmented development and adoption of States' management plans and programs and appears to require that only a completed comprehensive plan and program shall be submitted to the Secretary. Such a requirement might tend to impede the giving of immediate attention by States to the more urgent needs of particular coastal zone areas. As further encouragement to the coastal States to undertake the preparation and implementation of plans and programs, the committee may wish to add a provision to the bill to allow the States, with the approval of the Secretary, to develop and adopt a management plan and program in segments, provided that (1) the State adequately allows for the ultimate coordination of the various segments into a single unified plan and program and (2) such unified plan and program be completed as soon as is reasonably practicable, but within specified time limits.

On page 1, line 10, "titles" should be "title."

In section 306(c)(6) the reference to subsection "(g)" should be to subsection "(f)." Subsection "(h)" should be changed to subsection "(g)."

On page 11, "REVIEW AND PERFORMANCE" should be "REVIEW OF PERFORMANCE."

On page 11, line 22, "aproved" should be "approved."

On page 13, line 6, "exceediing" should be "exceeding."

On page 15, line 15, "costal" should be "coastal."

The reference to section "313" in section 313(a)(5) should be to section "312."

Sincerely yours,

ROBERT F. KELLER,  
*Acting Comptroller General of the United States.*



U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., May 4, 1971.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your recent request for our comment on S. 582 and S. 638, similar bills to assist the States in establishing coastal zone management plans and programs. We offer comment as well on those provisions of S. 632 and S. 992, pertaining to the establishment of a national land use policy, which merit discussion in this context.

Because we recognize a real and urgent need for comprehensive land use planning, and because it now appears that the States are prepared to move toward this objective, we recommend the enactment of S. 992 in lieu of S. 582 or S. 638.

S. 582 and S. 638 would both amend the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 *et seq.*) by adding a new Title III, the "National Coastal (and Estuarine) Zone Management Act of 1971". Consistent with a Congressional declaration that there is a national interest in the effective management, beneficial use, protection and development of the Nation's coastal zone, the Secretary of Commerce would be authorized to assist coastal States in their development and administration of an approved management plan and program. No such program could be approved without a finding by the Secretary that the coastal State has legal authority and institutional organization adequate for the management of its coastal zone. S. 582 would authorize annual grants not to exceed 66⅔% of a State's costs in developing its management program, provided that no single grant exceeds \$600,000, and a like percentage for costs of administering the program. S. 638 would establish the Federal share at 50%, and limit single development grants to \$200,000.

Both bills would authorize a program of bond and loan guaranties to facilitate land acquisition, land and water development, and restoration projects, provided that the aggregate principal amount of guaranteed bonds and loans never exceeds \$140 million. In addition to these general provisions, S. 582 would authorize cost-sharing for the acquisition, development and operation of not more than 15 estuarine sanctuaries. The Federal share of the cost for each such sanctuary could not exceed \$2 million.

As the result of two studies conducted by this Department and the Stratton Commission report, this Administration recommended that the 91st Congress enact legislation similar in concept to S. 582 and S. 638. We believed then, as we believe now, that the finite resources of our coastal and estuarine areas are threatened by population growth and economic development. At the Federal level, this Department had already been directed by the Estuary Protection Act of 1968 (82 Stat. 625, 16 U.S.C. 1221 *et seq.*) to conduct a study and inventory of the Nation's estuaries. As we reported to the Subcommittee on Oceanography a year ago, it was a conclusion of our study and others that

effective management of land and water resources could best be promoted by encouraging the States to accept a broadened responsibility for land use planning and management.

In its First Annual Report, the Council on Environmental Quality last August recognized "a need to begin shaping a national land use policy". In February of this year, the President urged that we "reform the institutional framework in which land use decisions are made", and recommended enactment of a proposed "National Land Use Policy Act of 1971", now pending before the Senate as S. 992. It is the President's proposal that \$20 million be authorized in each of the next five years to assist the States in establishing methods for protecting lands, including the coastal zone and estuaries, of critical environmental concern, methods for controlling large-scale development, and improving use of land around key facilities and new communities. "This proposal", the President said, "will replace and expand my proposal submitted to the last Congress for coastal zone management, while still giving priority attention to this area of the country which is especially sensitive to development pressures".

Specifically, S. 992 would authorize a two-phase program of grants to be administered by the Secretary of the Interior. In that cost-sharing grants would be awarded both for program development and for program management, S. 992 is similar to S. 582 and S. 638. The Administration proposal differs from S. 582 and S. 638, however, with respect to the scope of a State's planning activity and, indeed the number of States eligible for assistance. To assure that coastal zone and estuarine management receive the priority attention of coastal States, S. 992 would identify the coastal zones and estuaries as "areas of critical environmental concern" and require that a State's land use program include a method for inventorying and designating such areas. Further the Secretary would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries take into account (1) the aesthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection and (2) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities. Most important, perhaps, funds for program development and management would be allocated to the States under regulations which must take into account the nature and extent of coastal zones and estuaries. While S. 632 also anticipates the initiation of national land uses planning through assistance to the States in their development of appropriate legal and institutional implements, it would not provide emphasis or priority for protection of the coastal zone and estuaries.

Of the manmade threats to coastal environments described by the Council on Environmental Quality in its First Annual Report, most have their origin in heavily populated land areas at or near the water's edge. But others can be traced further inland, where eventual impact upon the coastal environment is not so easily recognized. Thus, while pressures become most intense at the point where land meets water, many cannot be alleviated without truly comprehensive planning. This fact, and the related absence of any precise geographic defi-

dition for the coastal zone, lies behind the integrated approach embodied in S. 992. It may be noted that several States, coastal and inland, have already expressed a commitment to this concept. We urge that the Congress and your Committee, so effective in its concern for sound management of the coastal zone, join in this initiative to encourage planning for effective management of all the Nation's lands and waters.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,  
*Assistant Secretary of the Interior.*

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ENVIRONMENTAL PROTECTION AGENCY,  
OFFICE OF THE ADMINISTRATOR,  
*Washington, D.C., June 1, 1971.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for our agency's comments on S. 582 and S. 638, bills to provide for a national program of assistance to the States in coastal zone management programs.

These bills would authorize the Secretary of Commerce to award grants to coastal States for the development of management plans and programs for the land and water resources of the coastal zone. Such grants would not exceed 66 $\frac{2}{3}$ % of the planning costs (S. 582) or 50% of such costs (S. 638). If the Secretary found that a plan was consistent with the purposes of the Act to balance development and protection of the natural environment; that provision for public notice and hearings on the plan and program had been made; that the plan and program had been reviewed and approved by the Governor; that a single agency would administer and implement the management plan and program; and that the State had the necessary authority to implement the program, including controls over public and private development, he would be authorized to make annual grants for the costs of administering the program, with the same maximum percentages as planning grants. S. 582 also requires minimum grants of at least one percent of costs.

With the Secretary's approval, States would be authorized to develop plans in segments so as to focus attention on problem areas, and to revise plans to meet changed conditions. Grants could be terminated if the Secretary determined that a State was failing to implement its plan and program.

Additional provisions would require the Secretary, before approving programs, to consult with Federal agencies principally involved. Federal agencies conducting or supporting activities in the coastal zone would be required to "seek to make such activities consistent with the approved State management plan and program for the area." Federal development activities in the coastal zone would be prohibited

if the coastal State deemed such activities inconsistent with a management plan unless the Secretary found such project consistent with the objectives of the bill, or in cases where the Secretary of Defense determines that the project is necessary in the interests of national security. Applicants for Federal licenses or permits to conduct any activity in the coastal zone would be required to obtain a certification from the appropriate State agency that the proposed activity was consistent with the coastal zone management plan and program.

The Secretary would be required to submit an annual report to the President for transmittal to the Congress on the administration of the Act.

S. 582 would also authorize the establishment of "estuarine sanctuaries" for the purpose of studies of natural and human processes occurring within the coastal zone, and would provide for grants by the Secretary of up to 50% of the costs of acquisition, development, and operation of such sanctuaries.

We recommend that these bills not be enacted, and that the Congress instead give favorable consideration to S. 992, the Administration's proposed "National Land Use Policy Act of 1971."

The "National Estuarine Pollution Study," which was developed for the Secretary of the Interior by the Federal Water Quality Administration, now a component of EPA, concluded that urbanization and industrialization, combined with unplanned development in the estuarine zone, have resulted in severe damage to the estuarine ecosystem. In addition, the "National Estuary Study," developed for the Secretary by the Fish and Wildlife Service, identified the need for a new thrust on the side of natural and aesthetic values in the Nation's estuarine areas. Clearly, we need to ensure that environmental values are adequately protected in such areas. In this connection, however, we are aware that land-use planning can affect all areas, not simply estuarine areas, and that adequate planning for preservation of estuarine and coastal areas can only be effective if the full range of alternatives to development in such areas can be considered. In other words, estuarine and coastal zone planning must be considered within the larger context of land-use planning State-wide.

S. 992 would authorize the Secretary of the Interior to make grants of up to 50% of cost to assist the States in developing and managing land use programs. Programs would be required to include methods for inventorying and exercising control over the use of land within areas of critical environmental concern, including coastal zones and estuaries. States would also be required to develop a system of controls or regulations to ensure compliance with applicable environmental standards and implementation plans.

Accordingly, we favor the approach embodied in S. 992, which incorporates provisions for the protection of the coastal and estuarine areas into its more comprehensive scheme. At the same time, we recognize that the coastal zone is an area of special concern, where prompt and effective action is required. Heavy pressures for further development, coupled with the fragility of coastal and estuarine areas, make it imperative that we move immediately to protect these areas. The system authorized by S. 992 will permit a high priority for coastal zone planning within its larger context of land use planning and programs. We therefore urge prompt Congressional approval of S. 992.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM D. RUCKELSHAUS,  
*Administrator.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., September 25, 1969.*

B-167694.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce, U.S. Senate.*

DEAR MR. CHAIRMAN: Reference is made to your letter of August 11, 1969, requesting our comments on S. 2802.

The bill would amend Public Law 89-454, as amended (33 U.S.C. 1101 *et seq.*), by adding thereto a new title III which would provide financial assistance to coastal authorities for establishing and implementing coastal management programs, and a new title IV which would provide for a special fund in the Treasury to be known as the "Marine Resources Fund."

We have no special information concerning the desirability of the proposed legislation and accordingly, we make no recommendation as to the merits of the bill. However, we offer the following comments for your consideration.

Sections 304(a) and 305(a) and (b) authorize the Council to make grants to coastal authorities for the purpose of developing a longrange master plan and implementing a development program, and to enter into agreements with coastal authorities to underwrite by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects.

The proposed legislation contains no criteria as to when or under what circumstances each type of financial assistance should be utilized. The Congress may wish to consider the advisability of including criteria which would provide that grants be made only in those instances where a finding has been made by the Council that the applicant for financial assistance does not have sufficient financial resources to permit the undertaking of a project with bond or loan financing. Also, we note that section 305(b) does not specifically state whether payments on defaulted bonds or loans are to be made from the Marine Resources Fund or from funds otherwise appropriated.

Section 312(a) contains what appears to be an unrealistic requirement for a report to the Congress not later than January 1 of each year on the administration of the title for the preceding calendar year. This requirement would provide only one day to finalize and issue a report on the preceding year's activities.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et seq.* Consequently, line 8 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 *et seq.*)"

The word "cosal" appearing in line 16 on page 8 of the bill should be changed to "coastal."

Sincerely yours,

ROBERT F. KELLER,  
*(For the Comptroller General of the United States.)*

FEDERAL MARITIME COMMISSION,  
OFFICE OF THE CHAIRMAN,  
Washington, D.C., March 12, 1970.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of March 2, 1970, for the views of the Federal Maritime Commission with respect to S. 3460, a bill

To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs.

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

HELEN DELICH BENTLEY,  
*Chairman.*

COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington, D.C. March 30, 1970.

B-167694.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U. S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of March 2, 1970, requesting our views on S. 3460, entitled: "A BILL To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs."

We have no special information as to the advantages or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following comments concerning specific provisions of the bill.

The bill calls for all Federal agencies to coordinate their activities in the coastal zone with the coastal States. (Section 303, page 4, lines 16-18.) We suggest that the extent of this coordination may not be sufficient since the activities undertaken by other (noncoastal) States affects the waters draining into the coastal States. The committee may wish to consider the possibility that entire river (or lake) basin coordination may be desirable.

The bill provides for a Federal agency (The National Council on Marine Resources and Engineering Development) to make grants to State agencies (coastal authorities) to assist them in developing a long-range master plan and implementing a development program based upon such master plan. If the coastal authorities borrow money

and issue bonds for the purpose of land acquisition or land and water development and restoration projects, the borrowings and bonds may be guaranteed by the Federal agency. (Section 305(a) page 6.)

We believe that the bill should prescribe the terms and conditions of the borrowings and bonds that may be guaranteed by the Federal agency and the rights of the Federal Government in the case of default. We believe also that the bill should specify the extent to which such borrowings and bonds may be guaranteed by the Federal agency.

Also, in order to effect more comprehensive master planning by the coastal authorities, we suggest for your consideration the following change at page 7, line 19:

\* \* \* authority shall examine the land *and water* use regulations. \* \* \*

Similarly, regarding page 8, line 5, we suggest the following change:

\* \* \* shall examine to the extent possible land *and water* use plans. \* \* \*

Also, regarding page 8, line 11, we suggest the following change:

\* \* \* such master plan shall include studies, *analysis*, conclusions, and explanatory diagrams. \* \* \*

The bill provides for submission by the Federal agency of an annual report to the President for transmittal to the Congress not later than January 1 of each year covering administration during the preceding calendar year. (Section 315(a), page 17.) We suggest April 1 as being a more practicable report due date.

Page 2, line 5, contains the reference "16 U.S.C. 1121" which should be "33 U.S.C. 1101.

Page 8, line 13, contains the word "popoulation" which should be corrected to "population."

Page 9, line 20, contains the word "have" which apparently should be "has."

Also page 19, line 5, contains the word "(z))" which should be "(a))."

Sincerely yours,

ROBERT F. KELLER,  
*Assistant Comptroller General of the United States.*

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DEPARTMENT OF TRANSPORTATION,  
NATIONAL TRANSPORTATION SAFETY BOARD,  
OFFICE OF THE CHAIRMAN,  
*Washington, D.C. April 13, 1970.*

Hon. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN MAGNUSON: Recently you requested our comments regarding S. 3460, a bill "To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs."

We find that this legislative proposal does not involve any aspect of transportation safety under National Transportation Safety Board jurisdiction. Accordingly, we do not have any helpful comments to offer.

Sincerely yours,

OSCAR M. LAUREL,  
*Acting Chairman.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., April 16, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for the Department's view on S. 2802, a bill "To assist the States in establishing coastal zone management programs."

Recently, the Department transmitted to the President of the Senate and the Speaker of the House a proposed bill "To provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone." The proposed bill was transmitted with, and would implement, the report of the National Estuarine Pollution Study. We recommend the enactment of our proposed bill, which is pending in the Senate as S. 3183, in lieu of S. 2802.

S. 2802 would extend the expiration date of the National Council on Marine Resources and Engineering Development from June 30, 1970 to June 30, 1975 and authorize the Council to provide financial assistance to the States in establishing coastal zone management programs. Such assistance would include grants covering up to 50 percent of the costs of formulating and implementing long-range master plans for the balanced development of the natural, commercial, industrial, recreational, and esthetic resources of the defined coastal zone area (generally land, bays, estuaries, and waters within three miles of the United States Coast). It would also include a guaranty of bond issues or loans for land acquisitions, land and water development, and restoration projects.

A special Marine Resources Fund would receive \$75 million annually, to be derived from revenues obtained under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 *et seq.*), to finance such grants and guaranties. All Federal agencies conducting or supporting research or other activities in a coastal zone would be required to make their activities consistent with any applicable State or interstate coastal planning and development program. In addition, Federal agencies would be prohibited from undertaking any development project in a coastal zone which the responsible State or interstate agency deemed to be inconsistent with such planning and development program unless the Council found such project, on balance, to be consistent with the general objectives of the bill. Conversely, the Council could reject a Federal development project that had been approved by the appropriate state agency.



This Department has participated actively in the efforts of the Marine Commission and the Marine Council which are directly concerned with the many problems of coastal zone management. On an operational level, virtually all of the natural resource-managing bureaus and offices of the Department of the Interior are actively engaged in program activities in the estuarine and coastal zone.

We recognize the great importance of the Nation's estuarine and coastal zone. We are aware of the critical need for a soundly based national program to encourage and assist the coastal states of the Nation in the effective management of the land, water and other resources in these areas. Thus, we concur in the basic objective of S. 2802 to establish a program for coastal zone management. We believe, however, that the overall program described in S. 3183 will be more effective, sounder, and comprehensive than that proposed in S. 2802.

S. 3183, as proposed by this Department would establish a national policy for the effective management and protection of the coastal zone. To accomplish this policy, the bill will add a new section 19 to the Federal Water Pollution Control Act, as amended, to provide for a cooperative program between the Federal and coastal state governments. Federal grants would be made to the coastal states on up to a 50 percent matching basis for developing a comprehensive management program for the state's coastal zone. Operational grants could also be made to the coastal state on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal state's performance under its program and provides for the power to terminate or withdraw financial assistance in case of partial compliance or a failure to comply.

Under S. 2802, the coastal zone management program would be administered by the National Council on Marine Resources and Engineering Development, a body established in the Executive Office of the President and comprised of the Vice President of the United States and eight (or nine if the Secretary of the Army were added to the Council as proposed in S. 2802) high-ranking representatives or heads of Departments and agencies of the Government. All council actions would be taken by majority vote of the Council membership with the Vice President authorized to cast an additional vote in cases of a tie.

We seriously question the wisdom of assigning the responsibility for administration of a coastal zone management program to the Council. We believe that the program should be administered by an operating Department; preferably, the Department of the Interior, which is presently engaged in existing programs in the estuarine and coastal zone.

We also believe that the approach taken in S. 3183 to funding the estuarine and coastal zone management program is preferable to the proposal in S. 2802 which would designate a set amount of revenue each year from the Outer Continental Shelf Lands Act for a Marine Resources Fund.

With respect to extending the life of the Marine Council as proposed in S. 2802, the Administration has recently recommended that the life of the Council be extended to June 30, 1971.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

LESLIE L. GLASGOW,  
*Assistant Secretary of the Interior.*

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NATIONAL SCIENCE FOUNDATION,  
OFFICE OF THE DIRECTOR,  
*Washington, D.C., April 20, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for comments on S. 2802, "Coastal Zone Management Act of 1969."

While the National Science Foundation is in general agreement with the purposes of S. 2802, the specific means proposed to carry them out appears to run counter to the coastal zone management plan recently proposed by the Administration.

On October 19, 1969, the Chairman of the National Council on Marine Resources and Engineering Development, Vice President Agnew, announced a five-point program to strengthen the country's marine science activities. The first part of this program, entitled Coastal Zone Management, would establish a new Federal policy to promote improved management of coastal areas and the Great Lakes by means of grants to help states plan and manage their coastal activities through state management authorities. Legislation to authorize such grants, with matching state contributions, was recently introduced in the Congress (H.R. 14845; S. 3183), and the Department of Interior has been assigned lead agency responsibility. Inasmuch as legislation to cover the Administration's program has now been introduced, we believe that it would be preferable for the Congress to take affirmative action on H.R. 14845 or S. 3183, rather than to proceed with S. 2802.

The Bureau of the Budget has advised us that there is no objection to the submission of this report from the viewpoint of the Administration's program.

Sincerely yours,

W. D. McELROY, *Director.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., April 21, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of April 10, 1970, requesting our views on S. 3183, entitled: "A BILL To amend

the Federal Water Pollution Control Act to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone."

We have no special information as to the advantage or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

At page 3, lines 7-10, the term "coastal State," is defined as including Puerto Rico and the Virgin Islands. We assume it is not intended to include the Trust Territory of Pacific Islands.

At page 8, line 21, regarding Federal approval of coastal State management plans, including State provision for conducting relevant research incident to such plans, the committee may wish to specify whether the research is to be basic, or applied research, or both. Also, regarding such State research supported by Federal funds and carried out in accordance with the grant program, the committee may wish to include provision for free Federal and State access to, and use of, items patented by the coastal States as the result of the development of new processes and techniques in the general area of water protection and pollution control.

At page 9, line 6, we suggest the following change:

(B) No grant funds shall be used for the acquisition of real property, *or any interest therein.*

Also, page 13, line 12, apparently is erroneous and should be corrected to provide as follows:

(3) The Secretary, *or the head of any other Federal agency concerned,* \* \* \*

Sincerely yours,

ROBERT F. KELLER,  
*Assistant Comptroller General of the United States.*

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., April 23, 1970.*

Hon. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your Committee has requested the comments of this Department on S. 3460, a bill "To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs".

Recently, the Department transmitted to the President of the Senate and the Speaker of the House a proposed bill "To provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone." The proposed bill was transmitted with, and would implement, the report of the National Estuarine Pollution Study. We recom-

mend the enactment of our proposed bill, which is pending in the Senate as S. 3183, in lieu of S. 3460.

S. 3460 would extend the expiration date of the National Council on Marine Resources and Engineering Development from June 30, 1970 to June 30, 1975 and authorize the Council to provide financial assistance to the States in establishing coastal zone management programs. Such assistance would include grants covering up to 50 percent of the costs of formulating and implementing long-range master plans for the balance development of the natural, commercial, industrial, recreational, and esthetic resources of the defined coastal zone area (generally land, bays, estuaries, and waters within three miles of the United States Coast). It would also include a guaranty of bond issues or loans for land acquisitions, land and water development, and restoration projects.

A special Marine Resources Fund would receive \$125 million annually, to be derived from revenues obtained under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 *et seq.*) to finance such grants and guaranties. All Federal agencies conducting or supporting research or other activities in a coastal zone would be required to make their activities consistent with any applicable State or interstate coastal planning and development program. In addition, Federal agencies would be prohibited from undertaking any development project in a coastal zone which the responsible State or interstate agency deemed to be inconsistent with such planning and development program unless the Council found such project, on balance, to be consistent with the general objectives of the bill. Conversely, the Council would reject a Federal development project that has been approved by the appropriate state agency.

S. 3460 is similar to S. 2802, also pending before your Committee. The bills differ in that S. 3460 would authorize the establishment, by the Chairman of the Council, of coastal zone management advisory committees, that would consult with the Council on matters of policy. It would also make available to coastal authorities grants up to 50 percent of the costs of acquisition, development, and operation of estuarine sanctuaries, defined by section 304(h) to be an area not to exceed ten square miles suitable for use as a natural field laboratory. Other differences include an appropriation authorization of \$125 million in S. 3460 as opposed to \$75 million in S. 2802, and effective dates for those appropriations of June 30, 1969 and June 30, 1970, respectively.

This Department participated actively in the efforts of the Marine Commission and the Marine Council which were directly concerned with the many problems of coastal zone management. On an operational level, virtually all of the natural resource-managing bureaus and offices of the Department of the Interior are actively engaged in program activities in the estuarine and coastal zone, including the Great Lakes.

We recognize the great importance of the Nation's estuarine and coastal zone. We are aware of the critical need for a soundly based national program to encourage and assist the coastal states of the Nation in the effective management of the land, water and other resources in these areas. Thus, we concur in the basic objectives of S. 3460 to establish a program for coastal zone management. We believe,

however, that the overall program described in S. 3183 will be more effective, sounder, and comprehensive than that proposed in S. 3460.

S. 3183, as proposed by this Department would establish a national policy for the effective management and protection of the coastal zone. To accomplish this policy, the bill will add a new section 19 to the Federal Water Pollution Control Act, as amended, to provide for a cooperative program between the Federal and coastal state governments. Federal grants would be made to the coastal states on up to a 50 percent matching basis for developing a comprehensive management program for the state's coastal zone. Operational grants could also be made to the coastal state on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal state's performance under its program and provides for the power to terminate or withdraw financial assistance in case of partial or noncompliance.

Under S. 3460, the coastal zone management program would be administered by the National Council on Marine Resources and Engineering Development, a body established in the Executive Office of the President and comprised of the Vice President of the United States and eight (or nine if the Secretary of the Army were added to the Council as proposed in S. 3460) high-ranking representatives or heads of Departments and agencies of the Government. All council actions would be taken by majority vote of the Council membership with the Vice President authorized to cast an additional vote in cases of a tie.

We seriously question the wisdom of assigning the responsibility for administration of a coastal zone management program to the Council. We believe that the program should be administered by an operating Department; preferably, the Department of the Interior, which is presently engaged in existing programs in the estuarine and coastal zone.

We also believe that the approach taken in S. 3183 to funding the estuarine and coastal zone management program is preferable to the proposal in S. 3460 which would designate a set amount of revenue each year from the Outer Continental Shelf Lands Act for a Marine Resources Fund.

With respect to extending the life of the Marine Council as proposed in S. 3460, the Administration has recently recommended that the life of the Council be extended to June 30, 1971.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HOLLIS M. DOLE,  
*Assistant Secretary of the Interior.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., May 1, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your Committee has requested the comments of this Department on S. 3183, a bill "To amend the Federal Water Pollution Control Act to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone."

A draft of S. 3183 was transmitted to the Congress with our report of the National Estuarine Pollution Study. S. 3183 is consistent with the findings of that study and would establish a national policy for the effective management and protection of the estuarine and coastal zone. We strongly urge the enactment of S. 3183 as a first step toward reform of land and water use in the areas of our country where convergence of population and technology are causing pollution and destruction of our coastal resources.

S. 3183, the proposed National Estuarine and Coastal Zone Management Act of 1970, would add a new Section 19 to the Federal Water Pollution Control Act, as amended, to provide for a cooperative program between the Federal and coastal State governments. Federal grants would be made to the coastal states on up to a 50 percent matching basis for developing a comprehensive management program for the state's coastal zone. Operational grants could also be made to the coastal state on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal state's performance under its program and provides for the power to terminate or withdraw financial assistance in case of partial compliance or a failure to comply. A summary of the specific provisions is attached.

S. 2802 and S. 3460 which are also pending before your Committee have similar objectives with respect to the estuarine and coastal zone, and the Department generally supports the objectives of those bills. However, there are significant differences between the provisions of S. 2802 and S. 3460 with respect to such provisions as: Federal agency responsibility for administration of the proposed grant program; method of financing the program; requirements with respect to responsibility and organization within the States for implementing the estuarine and coastal zone management program; interagency coordination at the Federal level; and definition of the estuarine and coastal zone. In all cases, we believe the provisions of the Administration's bill are superior to those of the other bills being considered. In particular, we believe that a grant program such as the one proposed should be administered by an operating agency rather than an executive office organization. The proposed program is closely related to many activities of the Department of the Interior and, we believe the

Department is in the best position to administer the program and achieve the necessary interagency coordination at the Federal level.

The Department of the Interior is broadly concerned with the whole area of natural resources and their most effective management. Nowhere is the need for effective management more noticeable than in the estuarine and coastal zone. To meet the critical need for a soundly based national program to encourage and assist the coastal States in the effective management of the land, water and other resources of the estuarine and coastal zone, we urge enactment of S. 3183.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

LESLIE L. GLASGOW,  
*Assistant Secretary of the Interior.*

Enclosure.

SUMMARY OF S. 3183, "THE NATIONAL ESTUARINE AND COASTAL  
ZONE MANAGEMENT ACT OF 1970"

The overall objective of the bill is to establish a national policy to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's estuarine and coastal zones through development and implementation of comprehensive management programs. "Coastal States" as defined in the bill, means any State of the United States bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes Puerto Rico, and the Virgin Islands. An "estuary" is defined as all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage. "Coastal Zone" is defined as the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other. For the purposes of identifying the objects of planning, management and regulatory programs dealt with in the bill, the coastal zone is considered to extend seaward to the outer limits of the territorial sea of the United States. The coastal zone includes areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, and channels.

The operative sections of the bill are cast as a new section 19 of the Federal Water Pollution Control Act, as amended.

Section 19(b) reflects a Congressional finding that there is a national interest in the effective management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone. In support of the finding, it notes the increasing number of conflicting demands on the finite resources of the coastal zone resulting from pressures of population growth and economic development; the value of estuaries, marshlands, and other parts of the coastal zone as habitat and life support areas for fish and wildlife and the susceptibility of such areas to destruction and disruption by man; the threat of increased harm to the coastal zone and loss of its

benefits resulting from continued unplanned or uncoordinated development activities; the value of the coastal zone for multiple economic, recreational, and resource uses; and the interest which the citizens of all States have in the coastal zone.

Section 19(c) authorizes the Secretary of the Interior to make program development grants to the coastal States to assist in developing comprehensive management programs for their coastal zones. Grants are limited to 50 percent of the State's cost of developing the program (to a maximum limit of \$200,000 per year for each coastal State). Other Federal funds cannot be used to match such grants. The initial and subsequent grants are, respectively, conditioned on a demonstration that the funds will be used to develop a comprehensive management program consistent with the requirement of subsection (d) (3) of the bill and a finding that the coastal State is adequately and expeditiously developing such a program. Upon completion of the development of the program the coastal State shall submit it to the Secretary for review.

Operating grants up to 50 percent of costs of administering the program (to a maximum limit of \$200,000 per year for each coastal State) are authorized by section 19(d) (1) if the State's program is approved by the Secretary. Operating grants will be allotted to the States on the basis of regulations developed by the Secretary which will take into account the amount and nature of the coastline and area covered by the management plan, population, and other relevant factors. No grant funds shall be used for the acquisition of real property.

Before approving a State's comprehensive management program, the Secretary must find that the Governor has designated a single agency to receive and administer grants for implementing its management plan; that the management plan has been reviewed and approved by the Governor; that the coastal State is organized to implement the management plan; that the agency or agencies responsible for implementing the management plan have the necessary regulatory authority; that the coastal State has developed and adopted a coastal zone management plan and that it has provided for adequate public notice and hearings in the development of its management plan.

Each coastal State's management plan must: identify the area covered by the management plan; identify and recognize the national, State, and local interest in the preservation, use, and development of the coastal zone; contain a feasible land and water use plan which reasonably reflects short-term and long-term public and private requirements for use of the coastal zone; describe the coastal State's current and planned programs for the management of its coastal zone; identify and describe the means for coordinating the plan with Federal, State, and local plans for use, conservation, and management of the coastal zone, including State, interstate, and regional comprehensive planning; reflect the State's procedures for reviews of State, local, and private projects in the coastal zone for consistency with the plan and for advising whether Federal and federally assisted projects are consistent with the plan; describe the State's procedures for modification and change of the management plan; indicate that the plan was developed in cooperation with relevant Federal agencies, State agencies, local governments, and all other interests; describe the pro-



cedures for regular review and updating of the plan; contain adequate provisions for disseminating information concerning the plan and subsequent modifications or changes; and provide for conducting, fostering, or utilizing relevant research.

The Governor of a coastal State may, with the Secretary's approval, allocate portions of a program development grant or operating grant to an interstate agency if such agency has authority to perform the functions required of a coastal State under the bill.

Section 19(e) requires the Secretary to continually review the management program and performance of the coastal States and authorizes him to terminate and withdraw financial assistance after notice and opportunity to present evidence have been given a coastal State where such coastal State unjustifiably fails to adhere to the program approved by the Secretary.

Section 19(f) authorizes the Secretary to establish advisory committees in the Department of the Interior to consult with and make recommendations to him on matters of policy concerning the coastal zone. The Secretary is authorized to compensate such members who are not full time Federal employees.

Section 19(g) requires the Secretary, before approving a State's management plan, to solicit the views of the Federal agencies principally affected by the plan or to be satisfied that such views were provided the State in the development of the plan. It directs all Federal agencies conducting or supporting activities in coastal areas to make such activities consistent with the approved plan for the area, and requires such agencies to refrain from approving proposed projects that are inconsistent with the plan without making investigation and finding that the proposals, on balance, are sound.

Section 19(h) establishes that the bill is not intended: to diminish Federal or State jurisdiction, responsibility, or rights in water resource planning, development, or control or to affect any interstate compact or joint agency or two or more States, or two or more States and the Federal Government, or the authority of the Congress to authorize and fund projects; to affect the authority of any federal official except as may be required to carry out the provisions of the bill; to affect existing law applicable to Federal agencies except as may be required to carry out the provisions of the bill; or to affect the authority of certain named international bodies.

The Secretary is authorized by section 19(i), after consultation with other interested parties, to promulgate rules for submission and review of the grants authorized by the bill and to require reports concerning the status and application of Federal funds and the operation of the approved management program. Access to books and records of grant recipients by the Secretary, heads of other Federal agencies, and the Comptroller General is provided by section 19(i) (3).

The bill authorizes the appropriation of \$2,000,000 for fiscal year 1971 and such sums as may be necessary for the fiscal years thereafter June 30, 1975, for program development grants; such sums as may be necessary for the fiscal year ending June 30, 1972, and for each succeeding fiscal year thereafter for operating grants; and such funds as may be necessary for the Secretary to carry out the provisions of the bill.

FEDERAL MARITIME COMMISSION,  
OFFICE OF THE CHAIRMAN,  
Washington, D.C. May 13, 1970.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate,  
Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Federal Maritime Commission with respect to S. 3183, a bill

To amend the Federal Water Pollution Control Act to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone.

S. 3183 would establish a national policy which declares a national interest in the effective management, beneficial use, protection and development of the land and water resources of the Nation's estuarine and coastal zones.

The bill is based on a three year comprehensive study of the effects of pollution in estuaries and estuarine zones of the United States on fish and wildlife, on fishing, recreation, water supply, water power, by the Department of the Interior as required by section 5(g) of the Federal Water Pollution Control Act<sup>1</sup>. It encourages the development by coastal States, of comprehensive management programs for the land and water resources of the coastal zones by authorizing grants of Federal funds up to 50% of the costs of the programs. The use of other Federal funds to match the grants provided by S. 3183, is prohibited, and various safeguards are established to permit the Secretary of the Interior to assure, as a condition to the continuation of grants, that the States are adhering to the programs as approved by the Secretary.

Although the Federal Maritime Commission has no statutory functions or responsibilities which would be affected by the provisions of S. 3183, we are deeply concerned with the mounting environmental problems daily menacing the peoples of this nation. The programs contemplated in this bill appear designed to provide effective measures to combat some of these problems in the estuarine and coastal zones of the United States.

The Commission favors its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

HELEN DELICH BENTLEY,  
*Chairman.*

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<sup>1</sup> 33 U.S.C. 466(c)(g).

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., June 25, 1970.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce, U.S. Senate,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning S. 2802, a bill

To assist the States in establishing coastal zone management programs,  
 to be cited as the "Coastal Zone Management Act of 1969."

S. 2802 would amend the Marine Resources and Engineering Act of 1966, as amended (33 U.S.C. 1101 *et seq.*) by adding two new titles for the purpose of assisting the States to establish coastal zone management programs. In carrying out the provisions of this bill, the National Council on Marine Resources and Engineering Development established by the 1966 Act would review any planning and development program submitted by a coastal authority and would make grants to such authorities in order to assist them in developing a long-range master plan for the coastal zone and implementing a development program based upon such master plan.

This Department is in accord with the objectives of S. 2802, but we do not recommend that it be enacted.

On November 13, 1969, the Secretary of the Interior submitted to the Congress the Administration's draft legislation cited as the "National Estuarine and Coastal Zone Management Act of 1970," which has been introduced as S. 3183. S. 3183 would amend the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 *et seq.*) by adding a new section to establish a national policy and program for the effective management and protection of the coastal zone.

This Department favors the program of coastal zone protection provided for in S. 3183. Accordingly, we recommend enactment of S. 3183 in lieu of S. 2802.

We have been advised by the Bureau of the Budget that there would be no objection to submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

JAMES T. LYNN, *General Counsel.*